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Tuesday
March 13, 1984

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Civil Aeronautics Board

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Environmental Protection Agency

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Food and Drug Administration

Aviation Safety
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Smithsonian Institution

Environmental Impact Statements
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Federal Emergency Management Agency

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Marketing Agreements
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National Parks
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Poultry and Poultry Products
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Tuesday, March 13, 1984

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Late Planting Agreement Option Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction

SUMMARY: The final rule, revising 7 CFR Part 400, Subpart A—General Administrative Regulations, Late Planting Agreement Option, published on Tuesday, February 21, 1984 at 49 FR 6319, contained an error in that the rule incorrectly listed several crops to which it is not applicable and omitted one crop which should have been listed. This notice is being published to correct that error.

EFFECTIVE DATE: March 13, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation (FCIC), U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On Tuesday, February 21, 1984, FCIC published a final rule revising 7 CFR Part 400 General Administrative Regulations, Subpart A—Late Planting Agreement Option at 49 FR 6319.

In 7 CFR 400.4 of the rule as published, FCIC listed regulations for insuring crops to which the Late Planting Agreement Option is applicable. Several of the regulations listed are in error since the Late Planting Agreement Option is not applicable in those cases, while the Popcorn Regulations should have been included and was inadvertently omitted.

PART 400—[CORRECTED]

The error, on page 6320, is hereby corrected by republishing the corrected section as follows:

§ 400.4 Applicability to crops insured.

The provisions of this subpart shall be applicable to the provisions of FCIC policies issued under the following regulations for insuring crops:

7 CFR Part 418	Wheat
7 CFR Part 419	Barley
7 CFR Part 420	Grain Sorghum
7 CFR Part 421	Cotton
7 CFR Part 423	Flax
7 CFR Part 424	Rice
7 CFR Part 425	Peanuts
7 CFR Part 427	Oats
7 CFR Part 428	Sunflowers
7 CFR Part 429	Rye
7 CFR Part 430	Sugar Beets
7 CFR Part 431	Soybeans
7 CFR Part 432	Corn
7 CFR Part 433	Dry Beans
7 CFR Part 434	Tobacco (Dollar Plan)
7 CFR Part 435	Tobacco (Quota Plan)
7 CFR Part 436	Tobacco (Guaranteed Production Plan)
7 CFR Part 438	Tomatoes
7 CFR Part 447	Popcorn

The Late Planting Option shall be applicable in all counties in which the Corporation offers insurance on the crops contained in this section. A list of the counties is attached to each of the regulations listed above as Appendix A.

Done in Washington, D.C., on March 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: March 6, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-6684 Filed 3-12-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 413

[Amdt. No. 2]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: On Friday, January 6, 1984, the Federal Crop Insurance Corporation (FCIC) published Amendment No. 2 to the Texas Citrus Crop Insurance Regulations (7 CFR Part 413) at 49 FR 867.

The rule as published incorrectly indicated this amendment was effective for the 1984 and succeeding crop years. This should have read as being effective for the 1985 and succeeding crop years. This notice is being published to correct that error.

EFFECTIVE DATE: March 13, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On Friday, January 6, 1984, FCIC published a final rule in the **Federal Register** (49 FR 867) amending the Texas Citrus Crop Insurance Regulations (7 CFR Part 413). The published amendment was incorrectly listed as being effective for the 1984 and succeeding crop years and should have read as being effective for the 1985 and succeeding crop years. The correction is as follows:

Amendment No. 2 to the Texas Citrus Crop Insurance Regulations, published at 49 FR 867 on Friday, January 6, 1984, is corrected by substituting 1985 as the effective crop year wherever that reference occurs.

Done in Washington, D.C., on March 3, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: March 6, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-6685 Filed 3-12-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 597; Navel Orange Reg. 596, Amdt. 1; Navel Orange Reg. 595, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 597 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 16–22, 1984. Regulations 596, Amendment 1, increases the quantity of such oranges that may be shipped during the period March 9–15, 1984, and Regulation 595, Amendment 1, increases the quantity of such oranges that may be shipped during the period March 2–8, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 597 becomes effective March 16, 1984, and the amendments are effective for the periods March 9–15, 1984, and March 2–8, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on March 6, 1984 at Woodlake, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone effective date until 30 days after the publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information become available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.897 is added as follows:

§ 907.897 Navel Orange Regulation 597.

The quantities of navel oranges grown in California and Arizona which may be handled during the period March 16, 1984, through March 22, 1984, are established as follows:

(a) District 1: 1,700,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.896 Navel Orange Regulation 596 paragraphs (a) through (d) are hereby revised to read:

§ 907.896 Navel Orange Regulations 596.

(a) District 1: 1,750,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. Section 907.895 Navel Orange Regulation 595 (49 FR 7101) paragraphs (a) through (d) are hereby revised to read:

§ 907.895 Navel Orange Regulations 595.

(a) District 1: 1,750,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 8, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-6714 Filed 3-12-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 84-005]

Ports Designated for Exportation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the "Inspection and Handling of Livestock for Exportation" regulations by adding a facility operated by Petair to the list of export inspection facilities for airport and ocean port services for the port of San Francisco, California; by adding a facility operated by the Alex Nichols Agency (horses only) to the list of export inspection facilities for airport and ocean port services for the port of New York, New York; and by changing the listing for the port of Los Angeles, California, to specify that it has both airport and ocean port facilities, rather than only airport facilities, for the exportation of animals. This action is necessary because it has been determined that the Petair and the Alex Nichols Agency facilities meet the requirements of the regulations for inclusion in the list of export inspection facilities, and because the port of Los Angeles has ocean port facilities for the exportation of animals.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. George Winegar, Import/Export Animals and Products Staff, VS, APHIS, USDA, Federal Building, Room 844–AAA, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8383.

SUPPLEMENTARY INFORMATION:

Background

The "Inspection and Handling of Livestock for Exportation" regulations in 9 CFR Part 91 regulate the exportation of animals from the United States. On November 22, 1983, a document was published in the **Federal Register** (48 FR

52689–52691) which amended § 91.14(a) of the regulations by adding "Petair, 145 Bel Air Road, P.O. Box 2431, South San Francisco, CA 94080, (415) 877–0200" to the list of export inspection facilities for airport and ocean port services for the port of San Francisco, California; by adding the "Alex Nichols Agency (horses only), P.O. Box 283, Glen Head, NY 11545, (516) 626–9100" to the list of export inspection facilities for airport and ocean port services for the port of New York, New York; and by changing the listing for the port of Los Angeles, California, to specify that it has both airport and ocean port facilities, rather than only airport facilities, for the exportation of animals.

The interim rule was made effective on November 22, 1983. Comment were solicited for 60 days following publication of the interim rule. No comments were received. The factual situation which was set forth in the document of November 22, 1983, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a major rule. The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

It is anticipated that an insignificant number of animals will be exported annually through the Petair facility and the Alex Nichols Agency facility and by ocean from the port of Los Angeles, compared with the total number of animals exported annually from the United States.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation, Humane animal handling.

Accordingly, the interim rule amending § 91.14 (48 FR 52689, November 22, 1983) is adopted as a final rule.

(Secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 10, 26 Stat. 417; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 3(b), 12(a), 12(h), 81 Stat. 584, 588, 592,; secs. 3 and 11, 76 Stat. 130, 132; sec. 1109, 72 Stat. 799, as amended; secs. 1 and 2, 26 Stat. 833, as amended; 21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618, 46 U.S.C. 466a, 466b, 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 7th day of March 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84–6659 Filed 3–12–84; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 83–013]

Poultry Products; Chiller Water Reuse

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal poultry products inspection regulations to permits operators of poultry processing establishments the option, if specific controls are maintained, of reducing the amount of fresh water intake required for continuous poultry chillers by supplementing the reduced intake with larger amounts of reconditioned water. Owners or operators of poultry establishments desiring to use water reconditioning in their chilling systems may, by submitting data and information on the efficacy of that reconditioning, request that the Administrator evaluate the water reconditioning systems to determine whether a reduced fresh water intake plan can be used. Implementation of the final rule will help conserve fresh water without increasing costs or threatening the wholesomeness of the product.

EFFECTIVE DATE: April 12, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3219. Copies of the footnoted materials are available for inspection in the Regulations Office or may be obtained by contacting Dr. Prucha.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined not to be a "major rule." The final rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The final rule places no additional requirements on the poultry processing industry. It provides an alternative processing method which will result in less water and energy use, and a reduced burden on private and municipal effluent disposal facilities, while maintaining sanitary conditions that are at least as effective as those provided under current procedures. Use of this option will benefit the public by reducing: (1) The stress on available water supplies; (2) the burden on waste treatment facilities; and (3) the demand on energy sources. Further, costs related to water use, chilling, and disposal will decrease.

Effective on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). The final rule places no new requirements on the poultry industry. It should allow processors to decrease costs for water consumption and disposal.

Background

Freshly slaughtered poultry is cooled immediately after slaughter to prevent spoilage. Chilling is generally accomplished by immersing the carcasses in large tanks of cooled water so that the internal temperature is reduced to 40° F. or less within a specified time period (9 CFR 381.66(b)(1)). The chilled water moves over the carcasses and aids the transfer of heat from carcass surfaces. The purpose of the system is to reduce the

temperature of the carcass, not to clean it. The poultry carcasses are already washed and considered ready-to-cook before they enter the chilling system.

The carcasses do, however, carry bacteria, some of which are washed off by the water movement of the chilling system. This rinsing action of the chilling system, if allowed to continue without intervention, would result in ever-increasing numbers of bacteria in the chill water, which could eventually cause contamination. To prevent this, the regulations require the addition of a certain amount of fresh water for each incoming carcass. As fresh water enters the chilling system, microbe laden water is discharged. The incidental washing effect of the chilling system water and the continual addition of fresh water to the system have been shown to reduce the bacterial level on the carcasses and to increase shelf-life.

The amount of fresh water which must be added to the chilling system is determined on a per carcass basis (9 CFR 381.66(c)(2)(ii)). At the time these levels (1 gallon per turkey, ½ gallon per frying chicken) were established, water supplies seemed unlimited, and the disposal of this water did not appear to be a problem. However, water is now a scarce resource in many places, and the disposal of large amounts of waste water has become a matter of economic and environmental concern.

The Department has examined ways of reducing fresh water requirements, including the use of diatomaceous earth (DE) filters for the removal of organic matter from poultry chiller water. The Department has determined that DE filtration is capable of significantly reducing the bacterial level of the chiller water. It has also concluded that a reduction in the amount of fresh water intake in continuous poultry chillers is appropriate, provided that the remaining intake is supplemented by reconditioned chiller water of the quality and volume to assure that bacteria on the exiting carcasses are not present in greater numbers than would be the case under current intake procedures.

The Proposal

On September 15, 1983, FSIS published a proposed rule in the **Federal Register** (48 FR 41427) to permit operators of poultry processing establishments the option, if specific controls are maintained, of reducing the amount of fresh water intake required for continuous poultry chillers by supplementing the reduced intake with larger amounts of reconditioned water. The proposal did not specify the type of water reconditioning treatment to be used, but would have required that a proposed and tested treatment attain a minimum of at least 60 percent reduction in micro-organisms, and the maintenance of light transmission of no less than 60 percent of that of fresh water. Under the proposal, as the efficacy of the water treatment increases, the amount of treated water required to permit a reduction of a gallon of fresh water decreases. At the minimum approval level (60 percent reduction in micro-organisms and 60 percent light transmission), 1.75 gallons of reconditioned water would be required to permit a reduction of one gallon of fresh water. At a level of 90 percent reduction in micro-organisms and 80 percent light transmission, 1.25 gallons of reconditioned water would permit a reduction of one gallon of fresh water.

Comments

The Department received 20 comments in response to the proposal. The comments were from poultry processors, a trade association, university departments of food science, individuals, and a foreign government. Seventeen of the comments were in favor of the proposal, two comments reflected a misunderstanding of how the proposal would be implemented, and one put on record the regulatory position of Great Britain with respect to the chilling of poultry. The comments supported the proposal as conserving water and energy and reducing cost while maintaining or improving quality.

Two commenters suggested modifying the proposal by setting a specific microbial value for the reconditioned water rather than specifying the percent reduction in microbial levels required. These commenters argued that such an approach would be more equitable to processors who already have a low microbial count. The approach has merit but would require the Department to determine at what level the specific microbial value should be set. This determination would be made only after extensive time- and resource-consuming studies had been completed. Further, it would be inappropriate to establish such a standard without first proposing it to the public. While the concept may warrant rulemaking at some future date, the Department has concluded that the suggestion should not be adopted at this time, in light of (1) The proven adequacy of current requirements; (2) the demonstrated equivalence to those requirements of the proposed alternative; (3) the limited resources available to conduct studies on the issue; (4) the desirability of providing economic and environmental relief now through publication of a final rule. The final rule, therefore, retains the standard of a percent reduction in microbial levels but does not provide for a specific microbial value for reconditioned water.

One commenter suggested that psychrotrophic plate counts be run at 10° C. rather than at 35° C., since the water and the birds will be kept at a temperature below 35° C. The Department does not agree with this suggestion. The regulation concerns chiller water, and the criterion to assure its cleanliness must be based on the most effective available measurements of the microbiological activity in that environment. Currently, the most effective microbiological measurement is obtained at the higher temperature.

Another commenter suggested setting a standard at which a one-to-one replacement would be allowed, e.g., one part reconditioned water for one part fresh water. The Department does not agree that a one-to-one replacement ratio should be allowed. As stated in the preamble, the proposal includes a margin of safety to allow for variability in the chilling system at any given time. The margin will accommodate an approximate 10 percent variability in the efficacy of the treatment. A one-to-one replacement ratio would not provide such a margin, which the Department believes is an important component of the proposal.

Two commenters requested that the Administrator evaluate their chilling systems to determine whether they could reduce fresh water intake in accordance with the proposal. While these responses do not directly address the substance of the proposal, they reflect a misunderstanding of its provisions which the Department wishes to address. The proposal envisions that reconditioned water may be used to reduce the fresh water intake requirement in a processor's poultry chilling system upon the processor's developing and submitting to the Administrator data which demonstrate that the water reconditioning system achieves and maintains the approval standards set forth in the proposal. The two commenters appear to have interpreted the proposal to mean that the Department would provide planning services to individual processors to develop acceptable water reconditioning systems. This is not the intent, and the language of the regulation has been modified to clarify that processors desiring to reduce fresh water intake must develop and submit to the Adminstrator data on their reconditioning systems to demonstrate that their system achieves and maintains, throughout the operating

shift, at least a 60 percent reduction in total micro-organisms. They must further demonstrate that light transmission of the treated water is maintained throughout the operating shift at no less than 60 percent of that of the fresh water supply. The development of a water reconditioning system and the documentation of that system's efficacy are the responsibility of the processor.

The British Embassy submitted a comment which stated that poultry exported to Great Britain must be prepared in accordance with Council Directive 78/50 of the European Economic Community. This directive makes no provision for the use of reconditioned water as permitted in the proposal.

The Department recognizes that Council Directive 78/50 of the European Economic Community makes no provision for the reconditioning of chiller water. However, since the proposal to permit the use of reconditioned water simply provides an option to poultry processors, those processors who wish to continue the current system will be free to do so. Plants desiring to export product must be aware of, and in conformance with, any conditions imposed by the country to which they wish to export.

Final Rule

Therefore, the Department is amending Part 381 of the Federal poultry products inspection regulations (9 CFR Part 381) as proposed except for clarifying changes. The regulation permits operators of poultry processing establishments the option, if specific controls are maintained, of reducing the amount of fresh water intake required for continous poultry chillers by supplementing the reduced intake with larger amounts of reconditioned water.

Indexing Terms: As required by 1 CFR 18.20 (46 FR 1762, January 22, 1981) the following are the indexing terms for this regulation:

List of Subjects in 9 CFR Part 381

Poultry and poultry products inspection, Chiller water.

Accordingly the Federal poultry products inspection regulations (9 CFR Part 381) would be revised to read as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for Part 381 is as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Public Law 91–224 and by other laws (33 U.S.C. 1254).

2. Section 381.66(c)(2) is amended by adding a new paragraph (vi) to read as follows:

§ 381.66 Temperatures and chilling and freezing procedures.

* * * * *

(c) * * *

(2) * * *

(vi) Any owner or operator of an official establishment desiring to utilize a chilling system which includes water reconditioning may, by submitting the information and data specified in (c)(2)(vi) (A) and (B) of this section, request the Administrator to evaluate the efficacy of the water reconditioning system to determine whether a reduction in fresh water intake requirements will be permitted: *Provided,* that the equipment related to the systems has been approved under § 381.53 of Subpart H of this subchapter, that operation of the system results in full compliance with the Act and this subchapter, and that the system permits effective and efficient monitoring. The Administrator shall approve requests in accordance with the following standard:

Minimum Percent reduction of micro-organisms in treated water	Minimum Percent light transmission in treated water	Gallons of reconditioned water to replace one gallon of fresh water
60	60	1.75
70	70	1.50
80	80	1.35
90	80	1.25
98	80	1.10

Requests for approval must include:

(A) Information specifying the equipment, as approved under § 381.53, materials, and conditions of use incident to the system. Items which must be so specified include filters; rate of flow; pressures and/or vacuums required for suitable operation; point of exit from the chilling units of water to be reconditioned; point of entry into the chilling units of the reconditioned water; frequency of filter changes, back-flushing, or other system restoration; post-filter treatment; and any other condition the alteration of which could affect the effectiveness of reconditioning; and

(B) Data demonstrating that reconditioning results in achieving and maintaining throughout the operating shift at least a 60 percent reduction in total micro-organisms, that such reduction relates within ∓10 percentage points to a similar reduction in any *coliforms,*[1] *Escherichia coli*[2] and/or *Salmonella spp.*[3] that may be present; and that light transmission of the treated water is maintained throughout the operating shift at no less than 60 percent of that of the fresh water supply.

* * * * *

Done at Washington, D.C., on: February 28, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84–6712 Filed 3–12–84; 8:45 am]

BILLING CODE 3410-DM-M

[1] Five tube most probable number (MPN) following procedures in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.4 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[2] Five tube most probable number (MPN) using procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.5 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[3] Most probable number (MPN) per 100 ml by 3 tube MPN. To each of three 100, 10, 1, and 0.1 ml sample portions, an equal volume of double strength lactose broth containng 1.2% Tergitol 7 is added. Then determined by procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 4.0; and computed using standard MPN tables.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–99–AD; Amdt. 39–4827]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires structural inspection and modification of certain Boeing Model 767 series airplanes to ensure that the structural integrity of the horizontal stabilizer pivot hinge fitting and adjacent structure is maintained. This action is prompted by the discovery of cracking of this structure during the Boeing Company's fatigue testing of the airplane. Progressive deterioration of the structure could result in loss of control of the airplane.

DATE: Effective April 30, 1984.

ADDRESSES: The service documents cited in this AD may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration,

Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Yarges, Airframe Branch, ANM-120S, at the above address, telephone (206) 431-2925. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD that requires inspection and modification of certain Boeing Model 767 horizontal stabilizer pivot hinge fitting components was published in the **Federal Register** on November 4, 1983 (48 FR 50899). The comment period of the proposal closed on January 1, 1984.

Interested persons have been afforded an opportunity to participate in the making of this AD. Due consideration has been given to all comments received.

Comments were received from the Air Transport Association of America and the Boeing Commercial Airplane Company. Neither of these comments opposed the AD.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires inspection of the horizontal stabilizer pivot hinge fitting and adjacent structure of certain Boeing 767 series airplanes and modification of the horizontal stabilizer pivot hinge fitting as terminating action.

Thirty airplanes of U.S. registry and four U.S. operators are affected. It is estimated that 64 manhours are required to modify each aircraft at a labor rate of $35 per hour. The manufacturer will supply parts at no charge. This results in a total cost for modification of less than $68,000 for the entire U.S. fleet. The total annual cost for the inspections is estimated to be $54,000. This is based on 7 inspections per year per aircraft and 8 manhours per inspection. Therefore, the total annual cost of this AD is estimated to be less than $100,000. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act are affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767-200 series airplanes, certificated in all categories, listed in Boeing Service Bulletin No. 767-52-2, dated August 19, 1983, or later FAA approved revisions. Compliance required as indicated in the body of the AD.

To ensure the structural integrity of the horizontal stabilizer pivot hinge fitting and adjacent structure accomplish the following, unless already accomplished:

A. Prior to the accumulation of 3000 landings, and thereafter at intervals not to exceed 300 landings, perform the following inspections:

1. Penetrant inspect the upper support fittings for cracks, and check the bolts common to the pivot hinge fitting and the BS 1809.5 bulkhead intercostal fitting for breakage in accordance with Boeing Service Bulletin 767-53-2 dated August 19, 1983, or later FAA approved revisions.

2. Visually inspect the surrounding structure for cracks. If cracks are found in the upper support fitting and not in the surrounding structure, accomplish the modification described in the Service Bulletin before further flight. If cracks are found in the surrounding structure, repair the airplane before further flight, in a manner approved by the Manager, Seattle Aircraft Certification Office.

B. Prior to accumulation of 6000 landings, accomplish the modification described in Boeing Service Bulletin 767-53-2 dated August 19, 1983, or later FAA approved revisions. This action terminates the repetitive inspections required by paragraph A., above.

C. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period.

F. For the purpose of this AD, and when approved by an FAA Maintenance Inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

All persons affected by this directive who have not already received Boeing Service Bulletin 767-53-2 dated August 19, 1983, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective April 30, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities since no small entities operate Boeing 767 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on March 2, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-6608 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-121-AD; Amdt. 39-4824]

Airworthiness Directives: British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to British Aerospace model BAC 1-11 200 and 400 series airplanes which requires repetitive inspections for cracks, and repair or replacement as necessary, of the passenger and service door inner operating handles and end fittings. The AD as issued used an incorrect reference number for the manufacturer's corrective modification. This amendment corrects this reference number.

DATES: Effective March 19, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport,

Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA issued Amendment 39-4285 (46 FR 61835; December 21, 1981), AD 82-01-02, to correct reported service difficulties in the passenger and service door inner operating handles and end fittings. Paragraph (C) of Amendment 39-4285 makes reference of modification PM5176 which is not correct. The correct reference is modification PM5703.

Since this document only corrects the error made in Amendment 39-4285, notice and public procedure are unecessary and the amendment can be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the amendment

§ 39.13 [Corrected]

Accordingly, pursuant to the authority delegated to me by the Administrator, §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by correcting the modification number "PM5176" to read "PM5703" in paragraph (C) of Amendment 39-4285 (46 FR 61835, December 21, 1981), AD 82-01-02.

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502);[49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves an amendment that only corrects an error and does not impose any additional regulatory or economic burden on any person. This amendment, therefore, is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Model BAC 1-11 airplanes are operated by small entities, I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on February 28, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-6607 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-2]

Designation of Transition Area; Carlisle, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Carlisle, AR. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Carlisle Municipal Airport. This amendment is necessary since a new SIAP utilizing the Little Rock VORTAC is being developed and the transition area will provide protection for the approach. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, Telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On January 19, 1984, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 2263) stating that the Federal Aviation Administration proposed to designate the Carlisle, AR, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones and/or transition areas.

PART 71—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 GMT, May 10, 1984, as follows:

Carlisle, AR New

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Carlisle Municipal Airport (latitude 34°48'30" N., longitude 91°43'30"W.)

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.619(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 29, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-6614 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-57]

Alteration of Transition Area and Control Zone; Carlsbad, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Carlsbad, NM. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Cavern City Air Terminal. This amendment is necessary since the FAA proposed to establish an instrument landing system (ILS) to Runway 03 at the airport which will change the designated airspace requirements.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On January 23, 1984, a notice of proposed rulemaking was published in the **Federal Register** (49 FR 2792) stating that the Federal Aviation Administration proposed to alter the Carlsbad, NM, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones and/or Transition areas.

PART 71—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, are amended, effective 0901 GMT, May 10, 1984, as follows:

§ 71.171

Carlsbad, NM Revised

Within a 5.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 1.5 miles each side of the southwest localizer course extending from the 5.5-mile radius area to 6.5 miles southwest of the airport; and within 2.5 miles each side of the Carlsbad VORTAC 335-degree radial extending from the 5.5-mile radius area to 13 miles northwest of the VORTAC. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181

Carlsbad, NM Revised

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 2.5 miles each side of the southwest localizer course extending from the 9.5-mile radius area to 12.5 miles southwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on March 2, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-6613 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20715; File No. S7-995]

Application of Rule 10a-1 to Certain Sales by Block Positioners

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an exemption from the "tick" provisions of the short sale rule, Rule 10a-1 under the Securities Exchange Act of 1934 (the "Act"). The exemption will facilitate the block positioning activities of broker-dealers who engage in both block positioning and arbitrage. Under the exemption, a broker-dealer selling a security that it acquired while acting in the capacity of a block positioner may, in determining whether it is long or short for purposes of the "tick" provisions of the short sale rule, disregard a proprietary short position in that security if and to the extent that such short position is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: M. Blair Corkran, Jr. (202-272-2853); or Deren E. Manasevit (202-272-7496), Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On September 27, 1983, the Commission issued Securities Exchange Act Release No. 20230 (the "Proposing Release"),[1] which proposed an exemptive amendment to Rule 10a-1 (the "Rule").[2] The Commission also announced that the staff would not recommend that the Commission take enforcement action if broker-dealers relied upon the exemption pending final action on the proposal.[3] The Commission received four comment letters, each of which fully endorsed the proposed amendment.[4] The Commission is adopting the amendment to the Rule in the form proposed.

I. Background

Rule 10a-1 under the Act regulates short sales of certain securities. The Rule provides generally that short sales of reported securities (*i.e.*, securities as to which last sale information is reported in the consolidated system)[5] may be effected only at a price above the price at which the immediately preceding sale was effected ("plus tick"), or at a price equal to the last sale if the last preceding transaction at a different price was a lower price ("zero-plus tick"), established by reference to the last sale price reported from any market in the consolidated system.[6] The general purpose of Rule 10a-1 is to prevent manipulative sales of a security for the purpose of accelerating a decline in the price of such security.

II. Discussion

As more fully discussed in the Proposing Release, the amendment addresses the interaction between Rule 10a-1 and Rule 3b-3 [7] under the Act.

[1] 28 SEC Docket 1447 (October 11, 1983), 48 FR 45119 (October 3, 1983).

[2] 17 CFR 240.10a-1.

[3] The "no-action" position replaced a temporary exemption that the Commission had previously granted. *See* letters from the Commission to Joseph McLaughlin, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, dated June 1, 1982, and June 24, 1982.

[4] *See* File No. S7-995.

[5] Reported securities include: (i) any common stock, long-term warrant or preferred stock registered or admitted to unlisted trading privileges on either the New York Stock Exchange ("NYSE") or the American Stock Exchange ("Amex"); (ii) any common stock, long-term warrant, or preferred stock registered on any exchange or admitted to unlisted trading privileges thereon that substantially meets either NYSE or Amex original listing requirements; and (iii) any right to acquire any of the securities described in (i) or (ii) that is traded on the same exchange as such security. See Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1.

[6] Rule 10a-1(a). Pursuant to Rule 10a-1(a)(2), the permissibility of short sales effected on the NYSE and Amex is measured by reference to the last sale in those respective markets rather than by reference to the consolidated system. For listed securities that are not reported securities, the permissibility of short sales is measured by reference to the last sale on the exchange where the short sale is effected. Rule 10a-1(b).

[7] 17 CFR 240.3b-3.

Under Rule 3b–3, a broker-dealer is considered to have a short position in a security even though that position is fully covered by equivalent convertible securities, rights, warrants or call options.[8] As a result, that broker-dealer must comply with the "tick" provisions of paragraphs (a) and (b) of Rule 10a–1 when making any sales of that security. Such a requirement may inhibit the efforts of broker-dealers who engage in both block positioning [9] and arbitrage activity. If a broker-dealer seeks to dispose of a block of securities it bought as principal while acting in the capacity of block-positioner, it may be hindered in doing so if it simultaneously has a short position in the same security, even though that short position is fully offset as a result of arbitrage or hedging activity.[10]

The Commission has long recognized the important role that block positioning plays in providing liquidity for large securities transactions and in maintaining fair and orderly markets. Where a separate short position held by a block positioning firm is fully hedged, and therefore economically neutral, there is no incentive to effect sales from a trading account in which it carries on its block positioning activities in a manner that would cause or accelerate a decline in the market.

The exemption being adopted is drawn to limit its use to circumstances where it will facilitate activity beneficial to the market and where manipulative incentives do not appear to exist. First, the proposed exemption is limited to sales of a security acquired by a broker-dealer while acting in the capacity of a block positioner. Second, the exemption is available only if the short position is created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedging activities. For the purposes of the exemption, the terms "bona fide arbitrage", "risk arbitrage" and "bona fide hedge" are as defined in Part II of Securities Exchange Act Release No. 15533.[11]

[8] Rule 3b–3 (3), (4), and (5).

[9] Block positioning is the facilitation of a large purchase or sale of securities for a customer by buying or selling as principal the amount of securities that cannot be immediately placed with or obtained from third parties.

[10] For example, a broker-dealer that owned 200 in-the-money but unexercised XYZ call options hedged by a short stock position of 20,000 XYZ shares would, pursuant to Rule 3b–3, be deemed to be short 20,000 shares for purposes of compliance with the short sale rule. Accordingly, if the broker-dealer purchased a block of 15,000 shares of XYZ stock in the course of block positioning, absent an exemption, it would only be able to sell the block on an "up-tick" or a "zero-plus tick".

[11] 16 SEC Docket 854 (February 13, 1979), 44 FR 6084 (January 31, 1979).

III. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing Relase that the proposed amendment to Rule 10a–1, if adopted, would not have a significant impact on a substantial number of small entities. None of the comments addressed the certification.

IV. Effects on Competition and Other Findings

Section 23(a)(2) of the Act [12] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered the amendment to Rule 10a–1 in light of the standards specified in section 23(a)(2) and believes, for the reasons stated herein, that adoption of the amendment will not impose any burden in competition not necessary or appropriate in furtherance of the Act.

The Commission finds, in accordance with the Administrative Procedure Act,[13] that the adoption of the amendment to Rule 10a–1 relieves mandatory restrictions and is exemptive in nature. Accordingly, the amendment becomes effective immediately.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Statutory Basis and Text of the Amendment

The proposed amendment to Rule 10a–1 is adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly sections 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

On the basis of the above discussion and analysis, the Commission is amending Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding a new paragraph (e)(13) to § 240.10a–1 to read as follows:

§ 240.10a–1 Short sales.

* * * * *

(e) * * *

(13) A broker-dealer that has acquired a security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of Rule 3b–3 (§ 240.3b–3) and of this section notwithstanding that such broker-dealer may not have a net long position in such security if and to the extent that such broker-dealer's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

March 6, 1984.

[FR Doc. 84–6735 Filed 3–12–84; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78w(a)(2).

[13] 5 U.S.C. 553(d).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 83F–0355]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of all olefin polymers regulated as food-contact surfaces in aseptic packaging systems employing hydrogen peroxide solution as a sterilant. This action responds to a petition filed by the National Food Processors Association.

DATES: Effective March 13, 1984; objections by April 12, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 15, 1983 (48 FR 51981), FDA announced that a petition (FAP 4B3759) had been filed by the National Food Processors Association, 1401 New York Ave. NW., Washington, DC 20005, proposing that § 178.1005 of the food additive regulations be amended to provide for the safe use of all olefin polymers regulated in § 177.1520 (21 CFR 177.1520) as food-contact surfaces in

aseptic packaging systems employing hydrogen peroxide solution as a sterilant.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 178 is amended in § 178.1005 by revising the introductory paragraph and paragraph (e) to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.1005 Hydrogen peroxide solution.

Hydrogen peroxide solution identified in this section may be safely used as a sterilizing agent for food-contact surfaces identified in this section.

* * * * *

(e) *Conditions of use.* (1) Hydrogen peroxide solution identified in and complying with the specifications in this section may be used to treat olefin polymer food-contact surfaces complying with § 177.1520 of this chapter, to the extent indicated for and at least equivalent to attaining commercial sterility through thermal process for metal containers as provided in Part 113 of this chapter.

(2) The olefin polymers shall be used in articles for packaging commercially sterile foods only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, III, IV–B, V, and VI.

(3) Processed food packaged with hydrogen peroxide treated olefin polymer articles shall conform with Parts 108, 110, 113, and 114 of this chapter as applicable.

Any person who will be adversely affected by the foregoing regulations may at any time on or before April 12, 1984, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective March 13, 1984.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: March 7, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-6784 Filed 3-12-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone Ointment With Butacaine Sulfate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Biomed Laboratories providing for safe and effective use of nitrofurazone ointment with butacaine sulfate for preventing or treating surface bacterial infections in dogs, cats, and horses.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Biomed Laboratories, 4542 Denver St., Montclair, CA 91763, filed NADA 130–872 for use of nitrofurazone anesthetic soluble dressing, a water soluble ointment containing 0.2 percent nitrofurazone and 0.5 percent butacaine sulfate. The ointment is for the prevention or treatment of surface bacterial infections of ears, wounds, burns, and cutaneous ulcers in dogs, cats, and horses. The application is approved, and the regulations are amended accordingly. The basis of this approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by adding new § 524.580e to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL, DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1580e Nitrofurazone ointment with butacaine sulfate.

(a) *Specifications.* The drug contains 0.2 percent nitrofurazone and 0.5 percent butacaine sulfate in a water-soluble base.

(b) *Sponsor.* See No. 051259 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Indications for use.* For prevention or treatment of surface bacterial infections of ears, wounds, burns, and cutaneous ulcers of dogs, cats, and horses.[1]

(2) *Limitations.* Apply directly on the lesion with a spatula or first place on a piece of gauze. Use of a bandage is optional. The preparation should remain on the lesion for at least 24 hours. The dressing may be changed several times daily or left on the lesion for a longer period. For use only on dogs, cats, and horses (not for food use). In case of deep or puncture wounds or serious burns, use only as recommended by a veterinarian. If redness, irritation, or swelling persists or increases, discontinue use; consult veterinarian.[1]

Effective date. March 13, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-6643 Filed 3-12-84; 8:45 am]

BILLING CODE 4160-01-M

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7922]

Employment Taxes; Backup Withholding and Due Diligence Relating to Taxpayer Identification Numbers and Certification Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary rule.

SUMMARY: This document contains corrections to the **Federal Register** publication beginning at 48 FR 53104 of the temporary regulations which were the subject of Treasury Decision 7922, relating to backup withholding and due diligence relating to taxpayer identification numbers and certification requirements.

EFFECTIVE DATE: The temporary regulations that are the subject of these corrections are effective for payments made after December 31, 1983. The corrections are to be effective with respect to the same payments.

FOR FURTHER INFORMATION CONTACT: Cynthia Grigsby of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1983, the Federal **Register** published temporary regulations (48 FR 53104) relating to backup withholding and due diligence relating to taxpayer identification numbers and certification requirements. Changes to the applicable tax law were made by the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369).

Need for a Correction

As published, Treasury Decision 7922 cites two references incorrectly. Under the title "Regulatory Flexibility Act", right-hand column, page 53105, the second line includes a reference to "5 U.S.C. 533(b)" that should read "5 U.S.C. 553(b)". In "A-21" on page 53111, left-hand column, the second line from the bottom of that answer incorrectly includes the reference "1.6045-1(e)(3)(i)" that should read "1.6045-1(c)(3)(i)".

The third correction is required in the right-hand column on page 53110. The eighth line from the bottom of the first full paragraph omitted the language "number" immediately following the language "not provided a taxpayer indentification" and preceding the language "to".

Correction of Publication

Accordingly, the publication of Treasury Decision 7922, which was the subject of FR Doc. 83-31748 (48 FR 53104), is corrected as follows:

Paragraph 1. On page 53105, right-hand column in the second line under the title "Regulatory Flexibility Act" the language "5 U.S.C 533(b)" is removed and the language "5 U.S.C 533(b)" is added in its place.

Paragraph 2. On page 53111, left-hand column in the second line from the bottom of "A-21" the language "1.6045-1(e)(3)(1)" is removed and the language "1.6045-1(c)(3)(i)" is added in its place.

Paragraph 3. On page 53110, right-hand column, the eighth line form the bottom of the first full paragraph adds the language "number" immediately following the language "not provided a taxpayer identification" and preceding the language "to".

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-6710 Filed 3-12-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Modification to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the Secretary of the Interior's decision on a program amendment submitted by Ohio to satisfy a condition of approval of the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On August 1, 1983, OSM received from the Ohio Division of Reclamation an amendment consisting of proposed changes to the Ohio bonding system intended to satisfy condition (h)(1). After providing opportunity for public comment and conducting a thorough review of the program amendment, the Secretary has determined that the modification to the Ohio program does not satisfy the condition of approval. Accordingly, the Secretary is not approving the proposed program amendment and is not removing the condition of approval.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28

minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983; deficiency (e) by September 16, 1982; and the remaining deficiencies by February 8, 1983. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

On January 6, 1983, Ohio submitted materials to OSM intended to, among other things, satisfy conditions (a), (b), (c), (d), (f), (g), (h), (i), (j), (k)(1), and (k)(2). On February 1, 1983, Ohio requested an extension of the deadline for the State to meet conditions (k)(3), (k)(4), and (k)(5). These conditions were due February 8, 1983.

On May 24, 1983, the Secretary approved certain of the amendments and removed conditions (b), (d), (f)(1)–(f)(6), (f)(8)–(f) (10), (g), (h)(2), (h)(3), (i), (j), (k)(1) and (k)(2).

The Secretary established a deadline of August 8, 1983, for the State to meet conditions (a), (c) and (h)(1), and extended to that same date, the deadline for the State to meet conditions (f)(7), (k)(3), (k)(4), and (k)(5). Additionally the Secretary imposed two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

On July 26, 1983, Ohio requested an extension of time to meet certain conditions, including condition (h)(1). The State requested a six-month extension to meet condition (h)(1), which requires the State to revise its bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited. The State noted in its request that it had made numerous changes and instituted timetables for the reclamation of forfeited areas and would be forwarding a detailed narrative of these changes to OSM for review. The extension was requested to provide sufficient time for OSM to review the narrative and for Ohio to provide whatever additional information might be necessary. OSM published a notice in the **Federal Register** on October 11, 1983 (48 FR 46027) announcing that an extension of time, until February 8, 1984, had been granted to allow the State to meet condition (h)(1).

II. Submission of Revisions

On August 1, 1983, Ohio submitted a proposed program amendment to satisfy condition (h)(1) due August 8, 1983. The proposed amendment consists of certain programmatic changes and statistical information on the current status of forfeiture projects in the Ohio Division of Reclamation. The programmatic changes includes a revised schedule for forfeiture reclamation projects; proposed computerization of engineering and technical work associated with the projects; and a statement of intent to place additional staff in the Office of the Chief Engineer.

The State had previously submitted an amendment on January 6, 1983, which amended the Ohio statute to create the reclamation supplemental forfeiture special account and allowing the Auditor of State to transfer $1 million annually (instead of the previous limit of $500,000) to replace funds spent from the account. On May 24, 1983, the Secretary found that condition (h)(1) had not been satisfied because the condition required revision to the current bonding system to provide assurance of more timely reclamation at the site of all operations upon which bond has been forfeited. The Secretary found that while increasing the amount of money to be transferred annually is a step toward more timely reclamation, it is not in itself an assurance of more timely reclamation. Therefore, the Secretary allowed the State until August 8, 1983, to submit revised provisions, and subsequently extended that deadline to February 8, 1984.

OSM published a notice in the **Federal Register** on October 5, 1983, announcing receipt of the August 1, 1983, amendment and inviting public comment on whether the proposed amendment satisfied the condition of approval (48 FR 45420). The public comment period ended on November 4, 1983. A public hearing scheduled for October 25, 1983, was not held because no one expressed a desire to present testimony. No comments were received.

III. Secretary's Findings

Condition (h)(1) stipulates that Ohio provide further analysis of how the revised bonding system could achieve the objectives and purposes of the bonding program pursuant to section 509(c) of SMCRA and ensure reclamation as contemporaneously as practicable without unreasonable delay of the post-mining land use pursuant to sections 515 (b)(2) and (b)(16) of SMCRA.

The Office of Surface Mining has reviewed the Ohio Division of Reclamation's analysis of the Ohio bonding system. This information seeks to provide assurance of timely reclamation on forfeiture projects in response to the condition of program approval found in 30 CFR 935.11(h)(1).

The Division explains that a major source of delay in completing forfeiture projects has been due to a lack of personnel available for the design of the reclamation projects. To alleviate the situation, Ohio proposes the following program changes:

1. The Office of the Chief Engineer has established a schedule for placing 38 bond forfeiture projects under construction for fiscal year 1984;

2. The Division of Reclamation proposes to fund an engineering computer system to assist with the engineering and technical work associated with the design of projects; and

3. The Division of Reclamation has requested funding to add additional employees to the Office of the Chief Engineer to work on the designs of forfeiture projects.

The Ohio submission provides data that indicates that the present workload of forfeitures would not be placed completely under construction until 1986. In part, as the analysis demonstrates, Ohio does not have sufficient money available to complete reclamation of the sites presently subject to forfeiture and will not have sufficient funds until 1986. This estimate of adequate funds does not take into consideration any future forfeitures.

OSM's findings were that the proposed amendments to the Ohio program are not sufficient to satisfy condition (h)(1) in that Ohio fails to provide assurance of timely reclamation of sites upon which bond has been forfeited, for the reasons set forth below.

Ohio has not provided sufficient information to adequately analyze the bond forfeiture problems. For example, it is not clear that the analysis identifies sites on which bond was forfeited prior to 1980 and reclamation has not been completed, the sites on which bond was forfeited in 1983, and sites on which forfeiture proceedings are imminent. In addition, Ohio did not supply a detailed schedule for the completion of reclamation on all forfeited sites; a breakdown of the workload to enable a determination of the adequacy of staffing; identification of how Ohio would compensate for any lack of staff to design projects or the staffing level available to supervise construction; and has not identified how or when future forfeiture work can be completed in light of the backlog of forfeiture cases.

Further, the Ohio analysis indicates that it would not have a positive cash flow for reclamation on forfeited sites until fiscal year 1986. Ohio has not identified any source of funds to eliminate the funding shortfall in 1984 and 1985, nor has Ohio identified how the current bonding system will prevent a future occurrence of insufficient funds to assure timely reclamation.

This deficiency in the Ohio analysis is of great concern since subsequent discussions with Ohio indicate that the estimated costs for reclamation of current forfeitures outlined in the August submission appear to be substantially less than more recent estimates of costs.

Consequently, Ohio did not demonstrate that sufficient money will be available to complete the reclamation plan for areas which are now forfeited or which may be in default at any time, nor did it show how its alternative bonding system will provide economic incentive for the permittee to comply with the reclamation provisions.

Therefore, OSM notified Ohio by letter dated January 9, 1984, that in order for the Secretary to extend the period for Ohio to satisfy condition (h)(1) until April 15, 1984 and to fully satisfy condition (h)(1), Ohio must:

(1) Provide by February 1, 1984, a detailed schedule identifying each existing forfeiture project, a timetable for design and construction of forfeiture projects, the estimated cost of design and construction of existing forfeiture projects, and the mechanism to be used to assure that reclamation on future forfeitures is completed in a timely manner;

(2) Assure that Ohio will commit the resources necessary to complete construction on existing forfeiture projects no later than September 30, 1986, and any future forfeitures are completed in a timely manner;

(3) By January 15, 1984, assure that no less than one million dollars ($1,000,000) will be retained in the Unreclaimed Lands Account so that it will be available for transfer to the Supplemental Forfeiture Special Account; and

(4) Assure that by April 15, 1984, sufficient funding is available for expenditure to support the alternative bonding program, but in no event less that $3.3 million each year. Additional funding may be required should information indicate that the amount proposed by Ohio is insufficient to support the alternative bonding system.

Ohio responded to OSM's letter on January 17 and February 7, 1984. The January 17 letter responded to Item 3 by assuring OSM that the Division is currently statutorily authorized to transfer up to one million dollars annually from the Unreclaimed Lands Account to the Supplemental Forfeiture Special Account to complete forfeiture projects where additional monies are necessary. The Division assured OSM that it will monitor the funds available by monitoring the number of State AML projects submitted to the Board of Unreclaimed Lands for consideration to ensure that residual funds in the amount of one million dollars remain to be utilized. The February 7 letter responded to Items 1 and 2 by providing a detailed schedule of forfeiture projects and the assurance that the Division will see to it that the resources necessary to complete the projects will be available and that construction will be completed by September 30, 1986. With regard to Item 4, the Division stated that it has prepared two separate funding proposals which it has discussed with representatives of the Governor's Office and other State personnel. The Division stated that it is aggressively pursuing a solution to the funding issue and will be able to provide the funding mechanisms to OSM by April 15, 1984.

While the proposed program amendment falls short of satisfying condition (h)(1), the Ohio letters indicate that Ohio is actively proceeding with steps to correct the deficiency and has agreed to action necessary to eliminate condition (h)(1). Since a legislative change is necessary, the Secretary will allow Ohio until April 15, 1984 to submit a revised program amendment that will demonstrate how the alternative bonding system will assure timely reclamation on the site of all operations for which bond has been forfeited or to institute a bonding system which requires each operator to submit a bond sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture.

IV. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 6, 1984.

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

Accordingly, 30 CFR Part 935 is amended as set forth herein.

PART 935—OHIO

30 CFR 935.11 is amended by revising paragraph (h)(1) as follows:

§ 935.11 Conditions of State regulatory program approval.

* * * * *

(h) Steps will be taken to terminate the approval found in § 935.10:

(1) Unless Ohio submits to the Secretary by April 15, 1984 a revised program amendment that will demonstrate how the alternative bonding system will assure timely reclamation on the site of all operations for which bond has been forfeited.

* * * * *

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 84–6094 Filed 3–12–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF INTERIOR

National Park Service

36 CFR Part 7

Delaware Water Gap National Recreation Area; Pennsylvania and New Jersey

AGENCY: National Park Service, Interior.

ACTION: Interim final rule.

SUMMARY: This interim final rule pertains to operation of commercial vehicles serving Orange County, New York on U.S. Highway 209 within

Delaware Water Gap National Recreation Area, Pennsylvania. Pub. L. 98–63, enacted on July 30, 1983, closed Highway 209 to all commercial vehicular traffic in accordance with 36 CFR 5.6 subject to certain exemptions. The ban on the use of U.S. Highway 209 by commercial vehicular traffic, established by Pub. L. 98–63 has been extended until December 31, 1985, by passage of Pub. L. 98–151 enacted on November 14, 1983. Pub. L. 98–151 further amended Pub. L. 98–63 by providing an additional exemption to the ban that authorizes up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York.

This interim final rule implements the additional statutory exemption to 36 CFR 5.6 enacted by Pub. L. 98–151.

DATES: This rule shall become effective March 13, 1984, however written comments, suggestions or objections will be accepted until May 14, 1984. The comments, suggestions or objections will then be reviewed and the regulation will be adjusted, if necessary, and published in the **Federal Register.**

ADDRESS: Comments should be addressed to: Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation Area, Telephone (717) 588–6637.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1983, that portion (21 miles) of U.S. Highway 209 within the boundaries of Delaware Water Gap National Recreation Area was transferred from the Commonwealth of Pennsylvania to the National Park Service. In accordance with Title 36, Code of Federal Regulations (CFR) § 5.6 prohibiting the use of roads in park areas by commercial vehicles, it was announced that Highway 209 would be closed to commercial vehicles April 25, 1983. On April 23, 1983, the Director, National Park Service announced a 180-day delay in the implementation of the closure of the road to commercial vehicles. On July 12, 1983, the United States District Court for the District of New Jersey ordered the Department of the Interior to enforce 36 CFR 5.6 for that section of Highway 209 contained within the recreation area. Enforcement of the order was stayed until September 12, 1983, to permit the National Park Service to determine whether to invoke an "emergency" rule to amend 36 CFR 5.6. On July 30, 1983, Pub. L. 98–63 was enacted closing Highway 209 in accordance with 36 CFR 5.6. Pub. L. 98–63 authorized the exemption of some commercial vehicles and directed that fees be established for certain commercial vehicle operations on Highway 209.

On October 14, 1983, the National Park Service published in the **Federal Register,** a special regulation codified at 36 CFR 7.71 to implement Pub. L. 98–63.

The commercial vehicles authorized to operate within the boundaries by the 1983 special regulation, are those vehicles: (i) Operated by businesses based within the recreation area; (ii) operated by businesses that, as of July 30, 1983, operated a commercial vehicular facility in Monroe, Pike or Northampton Counties, Pennsylvania, and the vehicular operation originates or terminates at such facility; or (iii) operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area.

In accordance with Pub. L. 98–63, the National Park Service also published, as part of § 7.71 information to implement a fee schedule based on the number of axles of lightweight and heavy vehicles. The fees collected are for the management, operation, construction, and maintenance of Highway 209 within the boundary of the recreation area.

The closure and exceptions provided for by Pub. L. 98–63, absent any additional Congressional action, were to terminate on December 31, 1983. Congress directed in Pub. L. 98–63, that in the interim, a commission be established to make recommendations to Congress by October 30, 1983, regarding a permanent transportation improvement program in the affected area. The commission was directed, among other things, to evaluate the statutory closure and exceptions. Their report has been completed and was transmitted to Congress on October 30, 1983.

Pub. L. 98–151 extended the ban for two years, until December 31, 1985. In addition to the exemptions established by Pub. L. 98–63, Pub. L. 98–151 also provided for up to 150 northbound and 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York.

Section-by-Section Analysis—Part 7

The National Park Service (NPS) will allow commercial vehicles meeting the legislatively established criteria of "serving businesses or persons in Orange County, New York" to travel Route 209 on a "first come-first served" basis. If the statutory limit of 150 southbound or northbound commercial vehicles is reached, a "notice to truckers" sign will be posted at the NPS monitor station located on Route 209 at the north and/or south boundary of Delaware Water Gap National Recreation Area. Commercial vehicles in excess of the statutory limit will be required to turn around and continue over alternative routes just as other commercial vehicles not meeting the exemption criteria must do. If it becomes apparent that the statutory limit is insufficient to meet the demand and that this system results in adverse impacts to adjacent communities or undue economic hardship to commercial operations, the NPS reserves the right to implement a telephone reservation system that will allocate use on a first call-first served daily basis. Prior to implementing a reservation system, notice will be given in the local news media for the affected areas. The NPS has elected to utilize a first come-first served method over alternative methods because it can be implemented immediately and because it avoids an assignment of use allocation by company, user group or other determinate on an incomplete date base. The number of vehicles which may meet the criteria of serving persons or businesses in Orange County, New York is presently unknown. Estimates of the projected number of affected vehicles range from 100 to more than 400 commercial vehicles per day. By accepting vehicles on a first come-first served basis, the NPS can determine the number and types of vehicles meeting the criteria established by Pub. L. 98–151. Should the actual demand not exceed the statutory limit of 150 trips each way, there may be no need to implement any other method of allocation. Should the statutory limit prove inadequate to meet the demand, alternative measures would need to be considered to equitably allocate the exemption among potential users.

Alternative methods that have been considered and tentatively rejected include the following:

a. Assign specific daily allocations to trucking companies and commercial entities who come forward in response to public notice and who document that they meet the legislatively mandated criteria. Such assignment will be on other than a "first come-first served" basis.

b. Assign allocations to identifiable commercial users but withhold a percentage of the daily allocation for commercial vehicles who can meet the criteria and for whatever reason, remained unknown to the Service at the time the allocation was initially made.

c. Institute a permit application system and allocate permits on an individual vehicle basis for a specified period of time.

d. Institute a permit application system and allocate permits to qualifying companies or commercial entities, by assigning them a maximum number of one-way and/or round trips based on historic use.

The NPS believes it is in the public interest to promulgate this rule as an interim final rule prior to public comment. The exemption for Orange County, New York commercial vehicles was effective January 1, 1984. Under normal public comment procedures, it would be 90 days before a final regulation could be adopted, i.e. late April, 1984.

A prolonged delay in implementing the legislative mandate would defeat Congressional intent to broaden the limited authorization for exceptions to the closure of Route 209 and impose an undue economic hardship on commercial vehicles servicing persons and businesses in Orange County which could use Route 209 but would otherwise be prohibited from doing so.

Public Participation

Public comment providing suggestions on the special regulations and/or additional information on which to base the sharing of the exemption for commercial vehicles serving persons or businesses in Orange County, New York is requested.

Interested persons may submit written comments, suggestions or objections regarding the special regulation to the address noted at the beginning of this rulemaking. Draft language is specifically requested in instances where the regulation is judged to be inadequate.

This regulation will be effective immediately upon publication in the **Federal Register.**

Drafting Information

The principal author of this rulemaking is William R. Supernaugh, Mid-Atlantic Regional Office, National Park Service, Philadelphia, Pennsylvania.

Paperwork Reduction Act

The rulemaking contains no provisions that would entail the collection of information or require compliance with 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

An Environmental Assessment and Finding of No Significant Impact has been prepared on the limited exemption to the ban on commercial vehicles found at 36 CFR 5.6. The final environmental impact statement on the management of Route 209 (September 1982) addresses the impacts of commercial vehicular traffic on Route 209 and the diversion of that traffic. Copies of these documents are available at the address noted at the beginning of this notice. The Department has determined that it is not necessary to prepare any additional documents concerning this regulation in order to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

List of Subjects in 7 CFR Part 71

National parks

Authority: Pub. L. 98–151 and 16 U.S.C. 1 and 3.

In consideration of the foregoing, it is proposed to amend 36 CFR, Chapter I as follows:

PART 7—SPECIAL REGULATIONS

1. In § 7.71 redesignate (d)(1)(iii) as (d)(1)(iv); add a new (d)(1)(iii) and (d)(3) as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(d) * * *

(1) * * *

(iii) Up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York on a first come-first served basis; or (iv) those operated in order to provide services to businesses and persons located in or contiguous to the boundaries of the recreation area.

* * * * *

(3) This regulation is effective until December 31, 1985.

Dated: February 7, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–6677 Filed 3–12–84: 8:45 am]

BILLING CODE 4310–70–M

SMITHSONIAN INSTITUTION

36 CFR Parts 503 and 530

Claims Against the Smithsonian Institution and its Bureaus

AGENCY: Smithsonian Institution.

ACTION: Final rule.

SUMMARY: The information on Smithsonian and National Gallery of Art (a Smithsonian bureau) claims procedures which presently appears as Parts 503 and 530 of Chapter V of Title 36 of the Code of Federal Regulations is absolete. Processing of claims has been further decentralized and, as appropriate, administrative procedures follow current U.S. Department of Justice guidance. Title 36 of the Code of Federal Regulations is being amended to reflect these changes.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Peter G. Powers, General Counsel, Smithsonian Institution, Washington, D.C. 20560. Telephone No.: (202) 357–2583.

SUPPLEMENTARY INFORMATION:

List of Subjects in 36 CFR Parts 503 and 530

Claims.

For the reasons set out in the preamble, Chapter V of Title 36 of the Code of Federal Regulations is amended as set forth below.

PART 503—[REMOVED]

1. Part 503 is removed.

2. Part 530 is revised to read as follows:

PART 530—CLAIMS AGAINST THE SMITHSONIAN INSTITUTION INCLUDING THE NATIONAL GALLERY OF ART, THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS AND THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

§ 530.1 Tort claims.

The Smithsonian Institution (which encompasses the National Gallery of Art, the John F. Kennedy Center for the Performing Arts and the Woodrow Wilson International Center for Scholars) falls within the purview of the Federal Tort Claims Act. Internal procedures for implementing the Act follow the current general guidance issued by the U.S. Department of Justice in 28 CFR Part 14. Information on specific claims procedures can be obtained as follows:

(a) Smithsonian Institution: Office of the General Counsel, Smithsonian Institution, Washington, D.C. 20560

(b) National Gallery of Art: Administrator, National Gallery of Art, Washington, D.C. 20565

(c) John F. Kennedy Center for the Performing Arts: Director of Operations, John F. Kennedy Center for the Performing Arts, Washington, D.C. 20566

(d) Woodrow Wilson International Center for Scholars: Assistant Director for Administration, Woodrow Wilson International Center for Scholars, Smithsonian Institution, Washington, D.C. 20560

Authority: 20 U.S.C. 41, *et seq.*

Dated: February 29, 1984.

Peter G. Powers,

General Counsel, Smithsonian Institution.

[FR Doc. 84-6539 Filed 3-13-84; 8:45 am]

BILLING CODE 8030-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2542-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: On November 18, 1983 (48 FR 52491), EPA proposed to approve operating permits for the Sisters of Providence Convent in St. Mary-of-the-Woods, Indiana, as revisions to the total suspended particulate (TSP) and sulfur dioxide (SO_2) portions of the Indiana State Implementation Plan (SIP). EPA received no public comments during the 30-day comment period of its proposed rulemaking and is today taking final action, to approve Indiana's revision to the TSP and SO_2 portions of its SIP.

DATE: This action is effective April 12, 1984.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available at the following addresses (It is recommended that you telephone the contact person listed below, before visiting the Region V Office):

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Environmental Protection Agency, Air and Radiation Branch, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Specialist, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2212.

SUPPLEMENTARY INFORMATION: On March 15, 1983, the Indiana Air Pollution Control Board (IAPCB) submitted revisions to the TSP and SO_2 portions of its SIP in the form of operating permits for the Sisters of Providence Convent in St. Mary-of-the-Woods, Indiana. Sisters of Providence Convent is located in Vigo County, 6.5 km from the industrialized center of Terre Haute.

The TSP SIP limits proposed in the operating permit will retain the annual emission limits as listed in the existing federally approved TSP SIP (47 FR 30972, July 16, 1982) but will both raise the hourly limits from 20.52 lb/hr to 42.6 lb/hr on Boilers 2 and 3 and from 24.24 lb/hr to 32.86 lb/hr on Boilers 5, 7, and 8 and derate the boilers from 34.2 to 25 MMBTU/hr (Boilers 2 and 3 combined) and from 39.8 to 24.8 MMBTU/hr (Boilers 5, 7, and 8 combined). This change in hourly emission limits will not cause an increase in actual emissions from these boilers, because the proposed emission limits represent status quo emissions. A screening analysis provided by the local air pollution control agency demonstrates that the revised hourly emission limits will not interfere with attainment and maintenance of the TSP NAAQS.

The lbs/MMBTU SO_2 limits proposed in the operating permit are identical to those in the existing federally approved SO_2 SIP (47 FR 20583, May 13, 1982). As a result of the derating condition mentioned above, the allowable SO_2 emission level will decrease from the current 1255 tons per year allowed to 509.6 tons per year. Since the previous allowable emission level was demonstrated to be adequate to ensure attainment and maintenance of the ambient air quality standards, the revised lower SO_2 emission level is approvable.

A detailed discussion of this SIP revision is contained in EPA's proposed rulemaking of November 18, 1983 (48 FR 52491). EPA's review of this SIP revision is contained in the Agency's Technical Support Documents of August 2, 1983, January 11, 1983, and October 7, 1980. EPA received no public comments on its proposed rulemaking and is today taking final action, to approve Indiana's revision to the TSP and SO_2 portions of its SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judical review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: March 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(45) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(45) On March 15, 1983, Indiana submitted a revision to the TSP and SO_2 portions of its SIP in the form of operating permits for the Sisters of Providence Convent in St. Mary-of-the-Woods, Indiana.

[FR Doc. 84-6521 Filed 3-12-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR PART 64

[Docket No. FEMA 6591]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA, Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may taken effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority had been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together will the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is a amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special/Flood hazard area identified	Date[1]
REGION I					
Connecticut, Fairfield	Stratford, town of	090016C	Aug. 18, 1972, emergency; June 1, 1978, regular; Mar. 15, 1984, suspended.	Feb. 28, 1975, June 1, 1978, and Aug. 1, 1980.	Mar. 15, 1984.
Rhode Island, Newport	Tiverton, town of	440012C	Aug. 18, 1972, emergency; May 2, 1977, regular; Mar. 15, 1984, suspended.	May 24, 1974, and May 2, 1977	Do.
REGION III					
New Jersey, Sussex	Franklin, borough of	340449B	July 7, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	May 17, 1974, and June 11, 1976	Do.
Do	Hamburg, borough of	340450B	Aug. 29, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	June 14, 1974, and Feb. 6, 1976	Do.
New York, Putnam	Cold Spring, village of	360064B	Aug. 19, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Mar. 8, 1974, and June 4, 1976	Do.
New York, Dutchess	Fishkill, village of	360218B	Aug. 20, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	June 21, 1974, and June 18, 1976	Do.
New York Oneida	Floyd, town of	360528B	Jan. 24, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Aug. 9, 1974, and June 18, 1976	Do.
New York, Schoharie	Middleburgh, town of	360744B	Apr. 9, 1976, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Aug. 30, 1974, and June 25, 1976	Do.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special/Flood hazard area identified	Date[1]
Do	Middleburgh, village of	361245D	Nov. 28, 1975, emergency; Mar. 15, 1984, regular; Mar.15, 1984, suspended.	May. 31, 1974, Sept. 12, 1975, Sept. 10, 1976, and Jan. 13, 1978.	Do.
Pennsylvania, Allegheny.	Upper St. Clair, township of	421119C	June 11, 1974, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	May 31, 1974, June 18, 1976, and May 23, 1980.	Do.
REGION IV					
Florida, Manatee	Unincorporated areas	120153B	June 25, 1971, emergency; June 25, 1971 regular; Mar. 15, 1984, suspended.	June 26, 1971, July 1, 1974, and July 20, 1976.	Do.
Mississippi, Harrison	Biloxi, city of	285252C	June 30, 1970, emergency; Sept. 11, 1970, regular; Mar. 15, 1984, suspended.	June 27, 1970, Sept. 11, 1970, Apr. 16, 1976, and Aug. 8, 1980.	Do.
Mississippi, Jackson	Unincorporated areas	285256C	June 30, 1970, emergency; Sept. 18, 1978, regular; Mar. 15, 1978, suspended.	Sept. 18, 1970, Apr. 3, 1978, and Oct. 1, 1983.	Do.
Do	Pascagoula, city of	285260	July 17, 1970, emergency; Sept. 18, 1970, regular; Mar. 15, 1984, suspended.	May 14, 1976	Do.
South Carolina, Charleston.	Charleston, city of	455412C	Oct. 30, 1970, emergency; Apr. 9, 1971, regular; Mar. 15, 1984, suspended.	Apr. 9, 1971, Apr. 27, 1971, May 25, 1973, July 1, 1974, Sept. 3, 1976, and Nov. 12, 1976.	Do.
REGION V					
Michigan, Saginaw	Bridgport, charter township of	260186B	Feb. 18, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Feb. 8, 1974, and Oct. 24, 1975	Do.
Wisconsin, LaCrosse	Unincorporated areas	550217A	Mar. 26, 1971, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Mar. 15, 1984	Do.
Wisconsin, Pierce and St. Croix.	Spring Valley, village of	550331C	July 2, 1975, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	June 14, 1974, July 18, 1975, and Mar. 12, 1982.	Do.
Wisconsin, Dunn	Wheeler, village of	550124B	Jan. 15, 1976, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Aug. 2, 1974, and Apr. 23, 1976	Do.
REGION VIII					
Colorado, Delta	Unincorporated areas	060041B	Apr. 9, 1979, emergency; Mar. 15, 1983, regular; Mar. 15, 1984 suspended.	May 10, 1977	Do.
REGION X					
Washington, Snohomish.	....do	535534	Nov. 27, 1970, emergency; Mar. 15, 1984, regular; Mar. 15, 1984, suspended.	Dec. 23, 1971, and Dec. 13, 1977	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–6658 Filed 3–12–84; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–594; RM–4409]

FM Broadcast Station in Trinidad, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class C Channel 223 for Channel 224A at Trinidad, Colorado, and modifies the Class A license accordingly, in response to a petition filed by Colorado Broadcasting, Inc.

EFFECTIVE DATE: May 14, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the Matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Trinidad, Colorado), MM Docket 83–594 RM–4409.

Adopted: March 1, 1984.
Released: March 7, 1984.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Colorado Broadcasting Corporation, Inc. ("petitioner"),[1] the Commission adopted a *Notice of Proposed Rule Making*, 48 Fed. Reg. 30162, published June 30, 1983, proposing to substitute Class C Channel 223 for Channel 224A at Trinidad, Colorado. The *Notice* also proposed to modify the petitioner's Class A license for Station KCRT–FM to specify operation on Channel 223. Supporting comments were filed by the petitioner. There were no oppositions to the proposal.

2. In comments, the petitioner incorporated by reference the information in the *Notice*. Petitioner also restated its intention to convert from a Class A to Class C facility, if the proposal is adopted.

3. After consideration of the proposal, we conclude that the public interest would be served by the channel substitution at Trinidad in order to provide an increase in coverage by petitioner's station. The substitution can be made in compliance with the minimum distance separation requirements. In addition, we have authorized in paragraph 5 a modification of the petitioner's license for Station KCRT–FM (Trinidad, Colorado) to specify operation on Channel 223, since there has been no other expression of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 14, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended to include the community listed below, as follows:

[1] Petitioner is the licensee of Station KCRT–FM, Trinidad, Colorado.

City	Channel No.
Trinidad, Colorado	223

5. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station KCRT–FM, Trinidad, Colorado, is modified to specify operation on Channel 223, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to Section 1.1301 of the Commission's Rules.

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–6640 Filed 3–12–84; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 49, No. 50
Tuesday, March 13, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch Program and School Breakfast Program; Competitive Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to amend the regulations for the National School Lunch Program and the School Breakfast Program to implement the decision by the U.S. Court of Appeals for the District of Columbia Circuit in the case of *National Soft Drink Association* v. *John R. Block, et al.*, respecting the sale of foods of minimal nutritional value in schools participating in these programs. The Court ruled that the Department had exceeded its rulemaking authority when it promulgated the "time and place" regulations restricting the sale of foods of minimal nutritional value *throughout* the school from the *beginning* of the school day until after the end of the last food service period. Therefore, this rule would amend the regulations to restrict the sale of foods of minimal nutritional value only during the breakfast and lunch periods and in food service areas.

DATE: To be assured of consideration, comments must be postmarked on or before May 14, 1984.

ADDRESS: Comments should be to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. Comments may be delivered or reviewed during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, at the address listed above or call (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291 and has been classified as "not major" because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprise to compete with foreign based enterprises in domestic or export markets.

This proposal has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

This proposal imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

Background

On October 10, 1977, Congress enacted Pub. L. 95–166. Section 17 of that statute amended Section 10 of the Child Nutrition Act of 1966 to restore to the Secretary of Agriculture the authority to regulate the sale of competitive foods in schools participating in the National School Lunch Program and/or the School Breakfast Program. A rule was published on January 29, 1980 (45 FR 6758), implementing this competitive foods amendment, which restricts the sale of certain foods throughout the school from the beginning of the school day to the end of the last school lunch period. The restricted foods are those which provided less than five percent per 100 calories and per serving of the U.S. Recommended Dietary Allowance for at least one of eight specified nutrients. The eight specified nutrients are protein, vitamin A, ascorbic acid, niacin, riboflavin, thiamine, calcium and iron. This rule limits the sale of carbonated beverages, water ices, chewing gum and certain candies (hard candies, jellies, marshmallow candies, and candy coated popcorn).

The National Soft Drink Association (NSDA) filed suit on May 1, 1980 (*National Soft Drink Association* v. *John R. Block, et al.*, C.A. No. 80–1093, (D.D.C.)), challenging the rule, alleging that it was arbitrary, capricious, and constituted an abuse of discretion. The NSDA also contended that the rule was in excess of statutory jurisdiction and promulgated without the observance of the procedures required by law. Simultaneously, the Community Nutrition Institute (CNI) filed suit (*Community Nutrition Institute* v. *Bergland*, C.A. No. 80–0243 (D.D.C.)) also challenging the regulation. The United States District Court for the District of Columbia denied the injunctive relief sought by NSDA and entered a summary judgment for the Department in the NSDA suit. NSDA appealed the ruling and on November 15, 1983, the U.S. Court of Appeals for the District of Columbia Circuit overturned the "time and place" portion of the District Court's ruling. The Appeals Court concluded in its ruling:

> An examination of the legislative history leads to the conclusion, albeit inconclusively, that the Congressional intent was to confine the control of junk food sales to the food service areas during the period of actual meal service * * * It follows that the Secretary exceeded his rulemaking authority when he promulgated the time and place regulations barring the sale of competitive foods throughout the school and until after the end of the last service of the day. The District Court erred in upholding the regulation as to the time and place provision.

In response to that ruling, this proposed regulation is being published to confine the control of competitive food sales to the food service area and only during meal hours. Although NSDA challenged, and the Court therefore technically ruled on, only the carbonated beverage portion of the rule, this proposed regulation extends the "time and place" changes to all four categories of restricted foods. The issue is, we believe, time and place, rather than a specific food item, and, therefore, the Department is proposing that the time and place finding be extended to all restricted foods. Imposing different restrictions on categories of restricted foods would not only complicate

administration at the local level, but also could result in additional lawsuits on behalf of other food industries.

The Court ruling refers to the restriction of foods of minimal nutritional value in the "food service area." The Department believes that this term is self-descriptive and has, therefore, not further defined "food service area." Generally, we believe the food service area will be the cafeteria. However, the term includes any area where meals subsidized by the National School Lunch and Breakfast Programs are served and eaten.

This proposed modification of the competitive foods rule does not indicate a lessening of commitment by the Department to the nutritional integrity of meals served in school programs. Nor does this rulemaking restrict State and local officials from maintaining or imposing stricter limitations on competitive food sales. The Department is hopeful that State and local school administrators will continue to make every effort to promote nutrition education and to encourage our Nation's schoolchildren to safeguard their health by consuming those foods served in the school meal programs.

This rule is being opened for comments since the sale of foods of minimal nutritional value has been an issue of controversy in the past. Commentors should be aware, however, that this rule implements a court decision and that the Department, therefore, has very little discretion over its provisions.

List of Subjects

7 CFR Part 210

Food assistance program, National school lunch program, Grant programs—school programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School breakfast program, Grant programs—school programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, it is proposed that 7 CFR Parts 210 and 220 be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In §210.2, paragraph (c–3) is revised and paragraph (c–4) is removed.

§ 210.2 Definitions.

* * * * *

(c–3) "Competitive foods" means all foods sold in competition with the National School Lunch Program to children in food service areas during the lunch periods, including foods of minimal nutritional value as listed in Appendix B of this part.

* * * * *

2. In § 210.15b, paragraph (a) is revised to read as follows:

§ 210.15b Competitive food services.

(a) State agencies and School Food Authorities may establish such regulations or instructions as are necessary to control the sale of competitive foods. State agencies and School Food Authorities shall prohibit the sale of foods in the categories of foods of minimal nutritional value as listed in Appendix B of this part in the food service areas during the lunch periods. The sale of all other competitive foods may, at the discretion of the State agency and School Food Authority, be allowed in food service areas during lunch periods but only if any profits from the sale of such foods accrue to the benefit of the nonprofit school food service or the school or student organizations approved by the school.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. In § 220.2, paragraph (c–1) is revised and paragraph (c–2) is removed.

§ 220.2 Definitions.

* * * * *

(c–1) "Competitive foods" means all foods sold in competition with the School Breakfast Program to children in food service areas during the breakfast period, including foods of minimal nutritional value as listed in Appendix B of this part.

* * * * *

2. In § 220.12, paragraph (a) is revised to read as follows:

§ 220.12 Competitive food service.

* * * * *

(a) State agencies and School Food Authorities may establish such regulations or instructions as are necessary to control the sale of competitive foods. State agencies and School Food Authorities shall prohibit the sale of foods in the categories of foods of minimal nutritional value as listed in Appendix B of this part in the food service areas during the breakfast periods. The sale of all other competitive foods may, at the discretion of the State agency and School Food Authority, be allowed in food service areas during breakfast periods; but only if any profits from the sale of such foods accrue to the benefit of the nonprofit school food service or the school or student organizations approved by the school.

(Sec. 17, Pub. L. 95–166, 91 Stat. 1345 (42 U.S.C. 1779))

Dated: March 8, 1984.

John Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 84–6742 Filed 3–12–84; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Amendment No. 3 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would further amend the continuing regulation § 979.304 to require city designations on inspection certificates. It would help the committee develop information on distribution patterns. The amendment would promote orderly marketing of such melons by providing marketing information.

DATES: Comments due April 11, 1984.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–5764.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 979) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0076.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic

impact on a substantial number of small entities.

Marketing Agreement No. 156 and Order No. 979 regulate the handling of melons grown in designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in December 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in McAllen, Texas on December 13, 1983, the committee recommended that the regulation continue but add that city destinations be shown on inspection certificates.

During the past season the South Texas Onion Committee carried out a market development and promotion project and a similar project is anticipated this season by the melon committee aimed at increasing trade awareness of South Texas melons in various city markets. The committee believes that requiring city designations on inspection certificates will help it to identify markets that would respond to future market development projects.

Although the regulation proposed to be amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before March 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipment of South Texas melons would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

Section 979.304 (47 FR 13118, 47 FR 24109, and 48 FR 21881) is hereby proposed to be further amended by revising paragraph (c)(1) to read as follows:

§ 979.304 Handling regulation.

* * * * *

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder, except pursuant to paragraphs (d) or (e), and (f) of this section, unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

* * * * *

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 8, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-6715 Filed 3-12-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASW-9]

Proposed Revocation of Transition Area; Eagle Pass, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to revoke the transition area at Eagle Pass, TX. The intended effect of the proposed action is to return controlled airspace for public use no longer required for protection of aircraft. This action is necessary since the standard instrument approach procedure (SIAP) has been canceled, thereby eliminating the need for the transition area.

DATES: Comments must be received on or before April 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Revocation of the transition area at Eagle Pass, TX, will necessitate an amendment to this subpart. This amendment will be required at Eagle Pass, TX, since the SIAP to the airport has been canceled and a need no longer exists for designation of a 700-foot transition area.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASW–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date

for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Taffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones and/or transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Eagle Pass, TX Revoked

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.)

Issued in Fort Worth, TX, on March 2, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-6611 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-10]

Proposed Alteration of Transition Area; Lake Jackson, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Lake Jackson, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Brazoria County Airport. This action is necessary since the old Brazoria County Airport has been closed and the VOR decommissioned, therefore reducing the designated controlled airspace for protection of aircraft.

DATES: Comments must be received on or before April 12, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (877–2630).

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Lake Jackson, TX, will necessitate an amendment to this subpart. This amendment will be required at Lake Jackson, TX, since the old airport has been closed and also the VOR has been decommissioned, thereby eliminating the need for controlled airspace for the aircraft and facility.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledged receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to airspace Docket No. 84–ASW–10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones and/or transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Lake Jackson, TX Amended

That airspace extending upward from 700-feet above the surface within a 6.5–mile radius of the Brazoria County Airport latitude 29°06'35" N., longitude 95°27'43" W.)

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent

and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on March 2, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-6612 Filed 3-12-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 256

[EDR-470] Economic Regulations Docket: 41686]

Display of Joint Operations in Carrier Owned Computer Reservations Systems

Dated: March 8, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to adopt an emergency rule that would prevent airlines owning computer reservations systems from denying access to their systems to carriers who coordinate their services under the same airline designator code. The proposed rule would also prohibit discrimination against carriers who conduct such operations. This rule is intended to ensure that systems owners do not use CRS access to limit the ways in which other carriers compete in marketing their services. One CRS owner has proposed to take such action on April 1. The Board's action responds to petitions by several air carriers.

DATES: Comments by March 22, 1984. Comments received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 41686, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn (202) 673-5450, Paul Samuel Smith (202) 673-5450, Barry L. Molar (202) 673-5205, George Baranko (202) 673-6011, or Robert D. Young (202) 673-6060, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: This proceeding is an outgrowth of a request from Congress that the Board investigate the effects of computerized systems (CRS's) on consumers and air transportation.[1] In response to the request, the Board submitted a report to Congress on June 1, 1983.[2] We later issued an Advanced Notice of Proposed Rulemaking (ANPRM, EDR-466, 48 FR 41171, September 14, 1983). After receiving comments, reply comments, and information solicited from carrier owners of CRS's (Docket 41663), we adopted a notice of proposed rulemaking at our Sunshine meeting of March 1, 1984, subject to review by the Office of Management and Budget.[3] The proposed rules would regulate the conduct of CRS vendors by prohibiting certain practices, such as biasing the display of information in favor of the CRS owner and charging discriminatory fees to other carriers for bookings made on the CRS. We proposed these rules because we believe that carrier owners of CRS's have substantial market power in the CRS industry that they may be using to adversely affect air transportation competition.

Our examination of the CRS industry revealed that the CRS market is dominated by a few carriers, that CRS's constitute the travel agents' information source, that agents are the primary means by which most carriers market their product, that signficant barriers to entry into the CRS market exist, and that the use of CRS market power could have a significant adverse effect on air transportation competition.

Several parties filed pleadings in response to the ANPRM on the issue of the CRS owners' treatment of carriers conducting joint operations under the same airline designator code. These carriers' coordinated operations are listed in the Official Airline Guide (OAG) and CRS's as the operations of a single carrier.

In its comments to the ANPRM, Frontier Airlines proposed that we declare that a CRS owner's refusal to display coordinates flights and services, by agreement between carriers, as "on-line" service constituted an unfair and deceptive trade practice and unfair method of competition.[4]

American Airlines later filed a third-party enforcement complaint in Docket 41875 against Air Florida, Eastern, Frontier and Pan American alleging, inter alia, that use of a single designator code for services offered by two separate carriers constituted a violation of section 411 of the Federal Aviation Act of 1958 ("Act") 49 U.S.C. 1381. United filed to intervene and supported American's complaint.

The complaint drew responses from USAir, Eastern, Frontier, Air Florida, and Pan American. Each of the respondents defended their feeder arrangements, and asserted that the agreements were not deceptive or an unfair trade practice and that these types of arrangements had been used throughout the industry for some time. Each indicated that the agreements called for extensive coordination between the carriers involved, including joint marketing of services and the use of common facilities. Frontier and Air Florida argued that the Board should address the matter in a rulemaking rather than in an enforcement proceeding.

Finally, on February 28 and 29, eleven carriers (the Joint Carriers) filed a motion for emergency relief and supplemental comments in Docket 41686. Their pleadings were participated by United's announcement that it would no longer list connecting flights operated by two separate carriers under a single designator code in the Apollo CRS after April 1.[5] These carriers asserted that United's announcement would require them to change substantially their methods of operation. The Joint Carriers also requested that we proceed by rulemaking and argued that United's proposed conduct constituted a violation of section 411. Eastern and Pan American, among others, have stated that they support the Joint Carriers' request. One commuter carrier, Province-Boston Airline, opposes it. The potential for the use of CRS market power to significantly reshape and adversely affect air transportation

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[1] Conference Report accompanying P.L. 97-369 (1983 CAB appropriations).

[2] *Report to Congress on Airline Computer Reservation Systems.*

[3] While the notice will not be published in the Federal Register until OMB has had an opportunity to review it, a draft of the notice subject to minor editorial revisions by the Board was released to the public after the March 1 Board meeting.

[4] See FL Comments pp. 24-28, November 17, 1983, and Supplemental Comments, January 24, 1984 (Docket 41686).

[5] The joint carriers—Air Kentucky, Chautauqua, Crown, Fischer Brothers, Henson, Pennsylvania, Piedmont, Pocono, Southern Jersey, Suburban, and USAir—also filed their comments in Dockets 41875. With the exception of Piedmont and Henson, these carriers constitute the Allegheny Commuter network. Henson, formerly allied with those carriers, has recently entered into an arrangement with Piedmont which was exempted from § 408 of the Act. Order 83-7-122.

competition makes it imperative that we act immediately in this emergency situation.

History of Cooperative Arrangements

The Joint Carriers, Frontier, and other airlines have chosen to compete with other carriers by coordinating their flights with affilated carriers and marketing these coordinated operations in the OAG and elsewhere under the same airline designator.

These arrangements began in 1967 with an agreement between Henson Aviation and USAir, then known as Allegheny Airlines, which permitted Henson to replace Allegheny's service between Baltimore and Hagerstown, Maryland. Order E–25834, October 13, 1967. The Board reviewed the entire transaction and concluded that an exemption from section 408 was necessary as Allegheny would "control" Henson. The agreement permitted Allegheny to set standards of service, including scheduling, aircraft type, and other "customer service standards." In addition, Allegheny controlled advertising, provided passenger and baggage handling, and ticketing services. Henson, an air taxi operator, was given a non-exclusive license to use Allegheny's trademark, symbols, and colors on its aircraft. Reservation services were also provided by Allegheny.

USAir thereafter expanded its commuter network, which is now in its seventeenth year. According to the Joint Carriers, United's Apollo CRS has displayed Allegheny commuter and USAir flights under the same "AL" code for the last eight years.

Other carriers have begun using similar types of cooperative arrangements and have listed their coordinated flights under a common designator code. Piedmont, for example, has acquired an equity interest in Henson, which now operates as a "Piedmont Regional Airline." Frontier, Eastern, and Pan American have similar arrangements with other small airlines. Frontier also coordinates its operations with those of Frontier Horizon, a newly-certificated carrier using jet aircraft in several long-haul Denver markets. Frontier and Frontier Horizon are under common control. Frontier contends that such cooperative arrangements are an attractive means for carriers like Frontier to compete with carriers like American and United which have much larger route networks. FL Answer, pp. 2–3, Docket 41875.

In several orders the Board has approved these practices. *See*, for example, Order 79–2–108, finding that the Allegheny commuter agreements were not anticompetitive. When Congress considered the Airline Deregulation Act of 1978, moreover, the Senate committee stated the Allegheny commuter agreements "have generally served important transportation needs of communities that ordinarily could not support large aircraft, certificated service" S. Rep. No. 95–631, 95th Cong., 2d Sess. (1978), p. 81.

We initially decided that we should not address the issue of designator codes in the CRS rulemaking proceeding. However, because United's proposal threatens to disrupt the operations of many carriers, we have decided to issue a proposed rule that would stem in their incipiency any potential adverse effects that could result if CRS vendors exclude legitimate business arrangements from the "on-line" display in CRS's or in any other way bias their systems against such arrangements. We also note that this proposed rule only addresses the issue of designator codes. The issues raised in the enforcement complaint in Docket 41875 will be pursued separately, including American's charge against the practices of individual respondents.

The United April 1 notice illustrates the potential power that can be wielded by CRS vendors. A vendor can limit the value of its competitors' legitimate business relationships by reclassifying connections between commonly-controlled or cooperating carriers as interline services. Because interline services generally have lower priority than online connections on CRS displays, the probability of sales of the cooperative services are reduced. If such threats are carried out, the effects could be significant: the change in display position would limit the sale of air transportation for those carriers operating under a single designator code; it could force carriers to alter, or even stop, joint marketing programs that have facilitated air transportation competition; and it would keep the public from learning about these services.

Currently, for example, Apollo's display sequence lists through flights first, followed by "on-line" connections and then "interline" connections. If joint marketing arrangements—commonly sold under a single designator code and currently considered "on-line" within the industry—are in the future invalidated by a vendor, those services would then be listed as interline connections—*i.e.*, would have a lower priority in the display sequence. That displacement might be harmful to consumers and competition in the air transportation industry, because it would significantly lessen the chances that these services would be purchased. Allowing a CRS vendor to dictate the terms of air transportation competition, by using CRS access to impose its definition of on-line service on the industry, is inconsistent with our mandate to maintain competition as we deregulate the industry. In addition, the CRS vendors should not be able to determine unilaterally the legitimacy of various joint marketing arrangements. That responsibility still remains in the Board's hands—and not in the hands of CRS vendors.

On the basis of the information we received in Docket 41663 and comments and reply comments to EDR–466, we decided to propose general rules that would forbid air carriers owning computer reservations systems from using those systems to affect air transportation competition adversely and to cause consumer injury. The rule proposed here is directly related to that proceeding: pending the final decision on the CRS rules, it will maintain the *status quo*, and will benefit the traveling public.

The proposed rule is justified because the ability to bias CRS's through delisting or altering the status of carriers' services could have an immediate and substantial effect on air transportation. Consumer injury could result because of the diminished air transportation competition and higher fares. We also tentatively find that the delisting or altering of flight information could be an unfair and deceptive practice under section 411.

We anticipate that the rule proposed here will be effective immediately, if adopted. It will preserve the current long-standing industry concept of joint marketing arrangements, and should require no affirmative action by any CRS vendor in the form of computer reprogramming or redrafting contracts.

The Role of Travel Agents and CRS's

Since the passage of the Airline Deregulation Act, two striking trends in the distribution of air transportation have developed. First, travel agents have become the primary distribution outlet for air carriers. Second, the overwhelming majority of travel agents have come to rely on CRS's as their primary resource for information on carriers' fares, service and seat availability.

As the air transport industry is currently structured, airlines have two major outlets for the distribution of their tickets: direct sales made by them and their competitors, and travel agents. Of these two distribution channels, the travel agency system has grown

predominant, and its importance is expected to increase over the next few years.

Unlike agents in most other industries, where distributors represent the interests of one or a few principals, each Air Traffic Conference (ATC) and International Air Transport Association (IATA) approved travel agent sells tickets on behalf of almost all airlines. Consumers view travel agents as providers of objective travel advice. CRS carriers have fostered the impression that CRS's can be used to obtain information about services of all carriers by claiming that the information is objectively displayed and that the best flights are listed first or in the first display. In practice, however, CRS carriers include in their displays significant preferences for their own services, and those of favored competitors, and these preferences inhibit the ability of travel agents to provide accurate advice. Obviously this can cause substantial injury to consumers. This also denies revenues to other air carriers that may provide better service. As a result, air transportation competition on the merits of fare and service offerings is being undermined.

In order to represent both their clients and their air carrier principals adequately, travel agents must have access to accurate and timely schedule, fare, and seat availability information. Prior to deregulation and the growth of CRS's, agents typically accomplished this task by resorting to voluminous industry manuals on flights and fares. The agent then had to call the carrier to book the flight. As entry into markets was restricted, this task did provide accurate information, although it was time-consuming. However, with the passage of the Deregulation Act, carriers were able to enter markets and change prices freely. Information management became a more arduous task, and the need for, and use of, CRS's increased dramatically.

The benefits of CRS's are obvious: travel agents can obtain information quickly and efficiently. The agent can also make reservations on most carriers through the computer and can print tickets automatically. Other benefits are also gained such as "back office" systems, which permit paper free transactions. One survey estimated that the average productivity gain from automation was forty-two percent. *Travel Weekly*, May 1982, Louis Harris Study at 51. It is no wonder that we have seen a dramatic increase in the number of automated travel agencies, and a concurrent jump in the percentage of tickets written by these agencies. *See e.g.*, UA011511. *Automation in Airline Reservation and Ticketing Systems*, pp. 1–3, Docket 36595. *See also* DOJ Comments Appendix A, page 1.

Thus, it is clear that for a carrier to obtain meaningful access to travel agents, the carrier must be included in the agents' primary information source—the CRS.

This fact has not gone unnoticed by CRS vendors. In the last three years they have begun to charge their competitors for the display of information through their systems. Carriers are forced to pay, for without access to travel agents they will be at a significant disadvantage vis-a-vis their competitors.

The information distribution function of computer reservations systems constitutes, in essence, the vertical integration of CRS vendors into air transportation distribution. Distribution is one level removed from air transportation competition and the level at which consumers actually purchase air transportation services. With vertical integration, if vendors have market power at the distribution level, they can use it to harm competition at the transportation level.

The facts gathered have demonstrated clearly that CRS vendors have substantial control over the information given travel agents about their competitors' flights. Our data on CRS vendors' market shares and concentration in the CRS industry shows the industry to be highly concentrated, with just six firms providing CRS services and two of them, American and United, having nearly 70 percent of the CRS market between them. *See* DOJ Comments, Appendix A, Docket 41686. Information submitted by the CRS hosts shows an even stronger domination of the CRS market by United And American. Responses to Information Directives 1 through 6, Docket 41663. Concentration is even more pronounced on a regional level, with individual CRS vendors frequently having market shares of more than 50 percent. These facts create an inference that CRS vendors at national and regional levels have substantial economic power in the information distribution market.

The inference of economic power is strengthened by evidence that entry into the CRS industry is difficult and that CRS carriers are engaged in conduct that could only occur if they possessed substantial market power. We may act to prevent its use to adversely affect air transportation competition under section 411, whether or not this economic power can be described as monopoly power. In addition, our review of CRS vendor practices has revealed conduct producing competitive harms that may be analagous to conduct that would be labeled an abuse of monopoly power under section 2 of the Sherman Act, 15 U.S.C. 2.

In our CRS proceeding we have examined the CRS industry to assess its competitive and consumer impact on air transportation services. Congress has entrusted us with the responsibility to ensure that competition remains vital in the air transportation industry. If CRS vendor practices have an adverse effect on competition and consumers, as discussed below, section 411 gives us the authority to act.

Entry Into the CRS Market

As the record in Dockets 41663 and 41686 demonstrates, development of a CRS is expensive and time-consuming, even for entrants that are starting with sophisticated in-house systems. See DOJ Comments at Appendix B: UA002433. DOJ estimates that entry would require a minimum investment of at least $100 million. DOJ Comments, at 71. Moreover, it appears that a substantial portion of these capital costs are "sunk" costs—costs that are not recoverable if the enterprise is discontinued. The time required to develop a CRS is also substantial as there appears to be a lack of experienced programmers, and programmer training can take from six months to two years. DOJ Comments at Appendix D: Kotar Tr. at 184–5, Murray Tr. at 120–26. Enhancements too take years to develop. DOJ Comments at 72.

A CRS vendor also faces economies of scale encountered in many "information" industries. NERA Analysis, page 9 attached to American's comments in Docket 41686. Consequently, a new entrant must consider a "critical mass" of "threshold" factors—the need to attain some minimum level of market penetration before production becomes economic. Id. at 11.

There are three potential sources of revenue for a CRS proprietor to recover its costs and make a profit: charges to travel agent subscribers, fees to airlines for reservations services and, for airline proprietors so-called incremental revenues, *i.e.* air transport revenues that the CRS proprietor gains by virtue of its system's presence in a travel agency. The pricing and marketing strategies of the two pioneer CRS proprietors have, since their systems' inception, placed the greatest reliance on the third revenue source to pay their way. This

strategy has, for better or worse, largely dictated the course of CRS development.

The phenomenon of incremental revenues (additional ticket sales) is relatively simple to describe but difficult to quantiy. When a travel agency is automated with a particular carrier's CRS, there is a very strong tendency for the agency to place a disproportionate amount of its customers on the flights of the CRS proprietor. There are several reasons for this phenomenon, including display "bias", the so-called "halo effect" (the goodwill obtained by the carrier when the agent has its CRS), and the accuracy of the CRS hosts' seat availability information.

Although estimates vary, all agree that the amount of additional air transport revenues generated by this phenomenon is tremendous. *See* DOJ Comments, at 54 and AA–ER1–22, p. 5. For example, in Docket 41663, United made a conservative estimate for purposes of that proceeding that its 1983 additional ticket revenues from Apollo were over $160 million (versus a system owned by a competitor). *See also* DOJ Comments, at 107. With the enormous potential for garnering incremental revenues, it is no wonder that United and American have emphasized its importance since the inception of their systems. In contrast, as the battle to sign up the strategic agencies intensified, fees for targeted agencies were driven even lower. *See* DOJ Comments at 51–56. While CRS owners have begun to seek ways to obtain revenues directly from other carriers, incremental revenues remain much more important.

The incentives and strategies of the two major CRS proprietors, dominated by their desire to maximize air transportation revenues, has important consequences. It forces all other CRS proprietors and potential entrants to match that strategy. If a CRS competitor wishes to attract any travel agent subscribers, it must offer its system at prices that are competitive with the at/or below-cost rates offered by the dominant CRS carriers. That forces the CRS competitor to rely on a combination of carrier fees and additional ticket revenues to compensate for the revenue shortfall from the travel agent source. Non-carriers or small carriers do not have the large air transport traffic base necessary to realize substantial incremental revenues and so are not able to earn a profitable return on a CRS. Large CRS carriers that are able to realize incremental revenues are forced into a strategy that will maximize their incremental revenues. Delta, for example, allegedly has introduced a substantial element of bias into its system through its choice of connect points even though it markets its system as unbiased. *See* American Airlines Reply Comments at Appendix B.

Another set of obstacles facing any would-be CRS proprietor relates to the difficulties in inducing agents to switch from one system to another. The number of non-automated agents is small, and long-term contracts, liquidated damage clauses and exclusivity provisions make it difficult for a new entrant to gain a stable foothold in the CRS market. *See* DOJ Comments at 57, 60–61, and UA 004603. As a result of these provisions, and other factors, few automated agencies, accounting for 12.6 percent of automated agency revenues, have more than one CRS at the same location. DOJ Comments at 58.

In addition, switching systems is both costly and time consuming to the travel agent. One study, conducted in 1981, reports that "very few owners or managers express even the slightest interest in switching systems. The system they have represents a significant investment not only in terms, of money, but in training and adjustment as well." UA 018326, DOJ Comments at Appendix B.

Further, in areas where a CRS proprietor has a significant air transportation presence, it has a distinct advantage over a CRS proprietor that does not have such a presence. *See* DOJ Comments at Appendix B; UA 018324–325. Thus, agents often select the CRS of a carrier that also provides a significant portion of the air transportation from a particular area. These "local" CRS vendors also provide the most reliable, accurate and up-to-date information on their inventory of airline seats—which the travel agent recognizes as virtually a necessity in writing tickets on that carrier.

The Importance of Additional Passengers

The key to understanding the effect of CRS practices—particularly bias—on competition in air transportation is to recognize the impact of incremental passengers on costs and profitability. Since a flight costs almost as much to operate empty as full, the per passenger cost is highly dependent on load factors—the percentage of seats filled with revenue-paying passengers. Simply stated, an airline averaging a 70 percent load factor will operate at roughly half the per passenger cost of a carrier with a 35 percent load factor, all other things being equal.

An airline will consider entry into a market where it can reasonably expect to attain a load factor high enough for it to cover its per passenger costs and make a profit at the prevailing price level. If it obtains more passengers per flight, its profits should increase dramatically—assuming it is not discounting greatly—since the added cost of each additional passenger is a small portion of the ticket price. On the other hand, if it fails to reach a break even load factor, its per passenger costs will increase in relation to the percentage its load factor is below break even. Moreover, unlike a seller of non-perishable goods, an airline's inventory of seats cannot be retained for another day. Once a flight takes off, the unsold seats will never provide any revenue.

Small differences in average load factors often make the difference between substantial profit and significant loss in the airline industry. This is the basic reason for the popularity of the so-called "hub and spoke" route systems. Each additional flight a carrier adds at its hub will increase by a small percentage (perhaps only one point) the load factors on connecting flights leaving for points beyond the hub. In this way, the hubbing carrier lowers its per passenger costs and increases its profitability.

The joint arrangements involved in this rulemaking are used to increase load factors in a similar manner. The participants benefit from coordinating their operations because they feed each other more traffic.

Essentially the same phenomenon is at work in the CRS industry. Each of the CRS providers recognizes that if an agent does not use a CRS or uses one without bias, it will place a certain number of passengers on its airplanes. This number can be increased by inducing the agent to use its CRS and by biasing their displays, because the probability of sale decreases line-to-line, screen-to-screen. AA083619. TW–CON–ER1–(9).

The added revenue which the CRS owner obtains through bias is, in most circumstances, profit-laden. Internal airline analyses often assume that 80% of this incremental revenue represents pre-tax profit. *See* TW–CON–ER1–22, pp. 32–81. For the carrier which "lost" that revenue, its profits decline by a similar amount, all other things being equal.

Consequently, small shifts in load factor can have enormous implications. The "disadvantaged" competitor can lose much if not all of its profit in the market, and, the "advantaged" carrier can, if it wished, drop its price—since its per passenger costs are lower—thereby gaining a bigger share of the market and cutting the profits of its competitor even more or forcing it to sustain greater

losses. Clearly, bias can be used by CRS owners as a powerful weapon against existing competitors and a strong deterrrent to entry by potential competitors. We believe a CRS owner's refusal to display other carriers' coordinated operations under a single designator constitutes a form of bias.

Competitive Analysis

Our analysis shows that the major airline-owned CRS systems have substantial market power which can be exerted today by altering or purging their systems of flights offered by two carriers, under a joint marketing agreement that provides for a single designator code, and thus is currently considered as an "on-line" connection. Control of information by CRS vendors gives them the ability to raise competitors' costs and to deter entry into city-pair markets in the airline industry.

We believe that Congress gave the Board the authority and responsibility to take appropriate action in this type of situation, primarily under section 411. In the Airline Deregulation Act, Congress placed a high priority on "the prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, including the avoidance of "excess market domination and monopoly power" and other conditions "that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation." Section 102(a)(7), 49 U.S.C. 1302(a)(7).

Congress also gave the Board authority to prevent "unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof." Section 411. Section 411 was patterned after section 5 of the Federal Trade Commission Act (15 U.S.C. 945) and, as the Supreme Court has noted, has the same general purposes. *Pan American World Airways v. U.S.*, 371 U.S. 296, 303 (1963). As the Supreme Court has consistently held, "unfair methods of competition" in the Federal Trade Commission Act "was designed to supplement and bolster the Sherman and the Clayton Act . . .—to stop in the incipiency acts and practices which, when full blown, would violate those acts." *FTC v. Motion Picture Advertising Service Co.*, 344 U.S. 392, 394–95 (1953). *Atlantic Refining Co. v. FTC*, 381 U.S. 357 (1965); *FTC v. Brown Shoe Co.*, 384 U.S. 316 (1966). The companion prohibition against "unfair or deceptive practices" in both section 411 and section 5 of the Federal Trade Commission Act was intended to protect consumers from trade practices which, while not necessarily anticompetitive, were misleading, contrary to recognize public policy or injurious to consumers. *FTC v. Sperry & Hutchinson Co.*, 405 U.S. 233, 244 (1972).

Given the prophylactic intent of section 411, it is appropriate for us to use section 411 as the basis for prospective rules. It permits us to forestall conduct where we find that a potential for abuse exists. We need not, therefore, determine whether there actually has been a violation of section 411 in order to promulgate rules. See *National Petroleum Refiners Ass'n v. FTC*, 482 F2d 672, 678 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 951. The choice between proceeding by general rule or by individual litigation is "one that lies primarily in the informed discretion of the administrative agency." *SEC v. Chenery Corp.*, 332 U.S. 202–03 (1947); *American Airlines, Inc. v. CAB*, 359 F2d 624 (D.C. Cir. 1966) *cert. denied*, 385 U.S. 843.

In considering CRS carrier practices under this section, we are aware that our principal obligation is to ensure effective competition in carriers' fare and service offerings. Of course, airline deregulation is premised upon the view that individual city-pair markets are highly contestable. Our concern with the CRS systems is that they constitute the primary information source to persons who sell over 60 percent of a typical air carrier's services today. Except for a very few carriers, like People Express and Southwest, which have simiplified pricing structures and regularized, frequent flights on heavily traveled routes and do not interline, carriers rely heavily on agents to inform the public of their fare and service offerings, and to write their tickets.

To assess the effects of CRS practices on air transportation, we must examine the CRS market. The CRS market consists of the several services CRS owners provide to distributors of air transportation (agents) and to the persons who wish to have their air transportation marketed through agents (other carriers). Agents purchase the electronic display of schedules, fares and seat availability, along with the ability to book reservations and issue tickets electronically by use of the system. Carriers purchase the electronic transmission of current schedule, fare and seat availability information, along with the transmission of reservation information upon an agent's sale of a seat. It is the ability to raise prices or restrict output of these services that is the focus of our analysis.

The current CRS situation is one which affects a significant number of airlines. For any rule to be effective, it must apply to all airline-owned CRS systems. The incentives to bias systems and generate incremental revenues by purging, delisting or altering flight information is sufficiently high so that only through an industry-wide rule can we prevent consumer and competitive abuse. Consequently, we believe the only responsible course is to propose a rule covering all airline-controlled CRS systems.

As already noted, access to travel agents is usually critical. With minor exceptions, a carrier simply cannot ignore this distribution system which already accounts for over 60 percent of domestic revenue. Carrier reliance on travel agents is based upon the substantial efficiencies of the agency system. *See Competitive Marketing Investigation*, Order 82–12–85 at 35.

Agent distribution services differ from carriers' direct sales services in that agents are relied upon to offer assistance in the selection of travel alternatives. In essence, consumers rely upon them to keep track of the multitude of service and fare options the various carriers in a market may offer.

As noted above, virtually all carriers must have access to a large proportion of travel agents in the regions the airlines serve. Reaching 90% of the travel agent market efficiently requires access to CRS systems. In economic terms, the cross-elasticities of demand between CRS's and their alternatives are very low for almost all carriers and travel agents. That, in and of itself, would not be a great concern were entry into the CRS industry easy or were the market not concentrated and agents and carriers could use multiple systems or quickly switch between systems. None of these is the case.

Entry into the CRS industry is not only difficult but indeed may well be impossible for all but the largest carriers that already provide CRS systems. In addition, since the additional ticket revenue generated by a CRS system for its owner is proportional to the amount of air transportation a carrier provides, it may well be that only the largest airlines—United, American, TWA, Eastern, and Delta—could profitably operate a CRS system today. Only these carriers have the extensive route systems necessary to generate incremental revenues of the magnitude required to make a CRS system potentially profitable. Contract terms too may inhibit entry. Likewise, non-carriers are at a severe disadvantage in the market and thus pose no significant competitive threat.

While much of our discussion has focused on the importance of travel

agents nationally, the real economic impact is more regional in nature. Obviously, most people use travel agencies with locations in the immediate community, not agencies hundreds or thousands of miles away. Consequently, a carrier is likely to have lower load factors—and therefore higher per passenger costs—if it is denied access to a high proportion of travel agents in the cities it serves. This is why the often high regional market shares cited by the Department of Justice are so troubling.

For example, the Joint Carriers point out that 55 percent of the automated travel agents in the Allentown-Bethlehem metropolitan area use United's Apollo system. These agents sold 58 percent of the air transportation in that area in the 18 months ended June 30, 1983. If United could refuse to list the coordinated services of two of the joint carriers, USAir and Suburban Airlines, under the same designator, their ability to market their services will be severely restricted.[6]

The CRS market is also highly concentrated, both nationally and regionally. In some cases, market shares are less than 60 percent, but, we must recognize that a firm can have substantial market power with much less than that percentage of the market. It all depends on the ease with which customers can switch to alternatives and the ease with which new entrants and fringe competitors can increase output: market elasticities of demand and supply. Landes & Posner, *Market Power in Antitrust Cases*, 94 Harvard Law Review 937, 951 (1981).

While American and United may not have quite that much market power, the fact remains that market elasticities of supply and demand appear to be low. In most cases, neither travel agents nor carriers have any alternative but to be on a system; smaller CRS providers are likely to encounter difficulties in growing quickly; and new entry into the CRS market is difficult if not effectively blocked.

We also have seen, in Dockets 41663 and 41686, that American and United can charge different carriers disparate prices for the same service. As Professor (now Judge) Posner has stated:

> Persistent discrimination is very good evidence of monopoly because it is inconsistent with the competitive market; it implies that some consumers are paying more than the cost of serving them, a situation that would disappear with competition. R. Posner, *Anti-trust Law: An Economic Perspective* 63 (1976).

In addition, major CRS vendors apparently can restrict the output of their product. Restriction of output is the classic behavior of a monopolist since this increases its profits. In the CRS market, the output is really the provision of information. And, restriction of information can be in the form of providing less information or providing less reliable information. In the case of bias, of course, it is the latter. Again, as in the case of systematic price discrimination, bias could not remain prevalent in a competitive market because travel agents and their customers—as well as other carriers—would obviously prefer unbiased information, although they might accept a certain degree of bias in exchange for lower fees. That biased systems not only persist but, in fact, dominate the market indicates very strongly that the incumbents recognize there is little threat of new entry.

Finally, internal documents of American, United and TWA reflect rates of return that could only exist in the long run if they had substantial market power. Since they do not price their CRS services to be profitable on a "stand alone" basis, these high rates of return are attributable to incremental revenues from air transportation. *See e.g.*, DOJ Comments at 52; UA 004586.

United's attempt to change the coordinated operations of affiliated carriers from the on-line connection display sequence to the interlining connection display sequence could only serve to divert passengers away from those carriers—in all likelihood, United may be the beneficiary. For example, at Denver, United and Frontier both have substantial hub and spoke operations, which gives each a large number of on-line connections. United's plan to deny Frontier-Frontier Horizon and their affiliated commuter carriers the use of the same designator would keep these carriers' coordinated operations from being listed as on-line connections. Travel agents and consumers would assume that their flights were interline connections and would be unaware of the potential service benefits provided by their operations.

Legal Conclusion

In view of the express policies in section 102 of the Airline Deregulation Act, we believe that we may not only have the authority but the responsibility under section 411 to take action to prevent the use of market power in the CRS industry to lessen competition in air transportation. Since that market power occurs only because the CRS providers are able to earn large amounts of incremental revenues from air transportation and would not exist if the CRS providers were not airlines, we believe that we have the authority to take action to reduce the market power in the CRS market.

This conduct is analogous to conduct which the courts have found destroys competition and establishes monopoly. In a number of cases monopolists have been required to deal on reasonable, nondiscriminatory terms. *LaPayre v. FTS*, 366 F.2d 117 (5th Cir. 1966) and *Fulton v. Hecht*, 580 F.2d 1243, 1249 (5th Cir. 1978) ("[u]nder § 5 of the FTC Act, a monopolist may be required to use uniform and reasonable criteria when dealing with those who compete in an adjacent market.") Moreover, the same duty has been imposed upon joint ventures where the joint ventures control a facility essential to effective competition. In *U.S. v. Terminal Railroad Ass'n*, 224 U.S. 383 (1912) several railroad companies formed a joint venture that controlled access to rail routes to St. Louis. Unanimous consent was required before any new firm could gain access. The court ordered the Association to permit other railroads to use the Association's facilities on reasonable, nondiscriminatory terms. To the same effect are *Associated Press v. U.S.*, 326 U.S. 1 (1945), and *Silver v. New York Stock Exchange*, 373 U.S. 341 (1963). Thus these cases require that those who control the essential facility provide access to all competitors on nondiscriminatory terms.[7]

In addition, the Allegheny commuter system and similar arrangements between commuters and carriers using jet aircraft are an important means of providing service to smaller communities. The Act directs us to consider in the public interest "The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities." Section 102(a)(8). We must guarantee essential air service for smaller communities, section 419. We believe a CRS owner's refusal to allow the use of the same designator for coordinated operations such as the Allegheny

[6] Regional market shares provided by the Department of Justice show that in many of the major metropolitan areas of the country, the largest CRS system has at least 40% of the travel agent markets. In many major cities, the percentage is much higher: Boston (69%), Cincinnati (84%), Cleveland (64%), Dallas-Ft. Worth (88%), Denver (72%), Houston (68%), Kansas City (71%), Phoenix (69%), Portland (66%) and Rochester (69%).

[7] It is also plausible that a court might find that an agreement between two carriers to forego a particular from of competition—such as operating under joint marketing agreements—constitutes a violation of section 1 of the Sherman Act, 15 U.S.C. §1.

commuter system will tend to frustrate these statutory goals.

Our Proposed Course of Action

We are proposing a rule which would preclude carrier owners of CRS's from discriminating against carriers who operate coordinated operations under the same designator code, without a Board determination that the use of the code is deceptive under section 411. The rule would specifically prohibit CRS owners from denying access to their systems on the ground that other carriers are using the same designator or from downgrading the listing of such joint operations in the CRS display.

We are considering this rule because CRS owners appear to be refusing to display coordinated schedules by carriers using the same code for competitive reasons. As shown, several carriers have found such joint arrangements to be a valuable method of competition. If their operations cannot be listed under the same designator, as they are now, the CRS owners may substantially reduce the attractiveness of such joint operations—and thus the attractiveness of that method of competition. We do not believe that the CRS owners should be able to use their market power in the CRS market to determine how other carriers can conduct their operations.

Furthermore, the use of the same designator code for some kinds of joint operations does not appear deceptive. We note that no one in the enforcement proceeding has presented evidence of consumer complaints and that the OAG has long allowed the use of one code for such joint operations. We also carefully scrutinized the Allegheny commuter agreements and have found no harm to competition or consumers. We found that the use of USAir's trademark in those circumstances did not constitute an unfair or deceptive practice or an unfair method of competition, and so does not offend Section 411 of the Act.

In addition, the failure to list such coordinated flights in the CRS under the same code may well be deceptive, for that could cause these operations to be listed as interline connecting service. These operations may be substantially superior to such service, as alleged by the pleadings of Frontier and the Joint Carriers.

We are not sanctioning the unrestrained use of common designator codes. For example, if two carriers using the same designator did not coordinate their services, their use of the same designator could be deceptive. They would be marketing what is essentially an interline connecting service as a significantly superior service. We believe, however, that the Board, acting under section 411, has the responsibility for prohibiting such conduct. CRS owners should not be able to unilaterally decide what conduct by their competitors could be unfair or deceptive. If they believe the common use of designator codes violates section 411, they should file an enforcement complaint, as American has already done.

We believe, moreover, that we may adopt the proposed rule in an informal rulemaking proceeding. The issue about the legitimacy of carriers using the same designator is one of industry-wide concern, as shown by the participation of United and other carriers in the American Airlines enforcement proceeding.

We are acting before the end of the usual 30 day period for replies to the Joint Carriers' petition because of the apparent need for prompt action. The issues raised by the petition have been addressed earlier in this docket. We believe it is unnecessary to wait for answers to the petition and that issuance of this proposal will be more productive. The Board therefore finds good cause to act without waiting for replies to the petition.

After we decide the rulemaking issues presented in Docket 41686, we will re-examine the rule we are proposing here, if adopted.

Comment Period

The Board is establishing a very short period for comments after publication of this rule in the Federal Register. United has announced that on April 1, 1984, it will refuse to display operations of two or more carriers using the same designator code. In order to prevent possibly irreparable damage to marketing relationships that may be substantially similar to those we have approved in the past, we have set a very short comment period. Interested persons may rely, as we do, on prior and ongoing proceedings to assist in the formulation of comments and reply comments. Moreover, the parties have already had an opportunity to address the issues involved here as a result of Frontier's comments on the ANPRM and American's enforcement complaint. The prospect of forced abrogation of joint marketing arrangements through CRS leverage, and the absence of new financial or regulatory burdens posed by our rule, with these other circumstances, warrant closing the period for comments on March 22, 1984.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The analysis is required to describe the need, objectives, legal basis for, and flexible alternatives to the agency's proposed action. These requirements are met by the discussion above and below. In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping, or other compliance requirements of the proposed rule, and any other Federal rules that may duplicate, overlap, or conflict with it.

The Board tentatively concludes that this rule, if adopted as proposed, may have a significant economic impact on a substantial number of small entities. The rule would benefit the commuter airlines sharing (at least in part) the two letter designator codes of larger carriers by preventing the CRS-owning carriers from crippling their joint marketing activities. These small airlines would be competitively injured if this rule were not adopted because competing carriers could control their access to travel agents. There are no duplicative, overlapping, or conflicting Federal requirements.

In addition, travel agents would benefit by this rule. Currently, there are over 15,000 travel agents who use CRS's, about 75–80 percent of all travel agents. The Board estimates that over three quarters of the nation's travel agents would be considered small entities under the Regulatory Flexibility Act. This rule would allow travel agents to conveniently receive CRS information on the coordinated operations of carriers. Without the rule, it is likely that it would be more time-consuming and therefore costly to find such flight information.

List of Subjects in 14 CFR Part 256

Advertising, Air Carriers, Air Transportation-Foreign, Antitrust, Consumer Protection, Essential Air Service, Travel Agents.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Chapter II by adding a new Part 256, *Display of Airline Designator Codes in Carrier Owned Computer Reservation Systems*, to read:

PART 256—DISPLAY OF AIRLINE DESIGNATOR CODES IN CARRIER OWNED COMPUTER RESERVATIONS SYSTEMS

Sec.
256.1 Purpose.
256.2 Applicability.
256.3 Definitions.
256.4 Display of Information.

Authority: Secs. 102, 204, 404, 408, 411, 412, 419, 1102 Pub. L. 85–726 as amended, 72 Stat. 740, 743, 760, 769, 797; 92 Stat. 1732; 49 U.S.C. 1302, 1324, 1374, 1378, 1381, 1382, 1389, 1502.

§ 256.1 Purpose.

The purpose of this part is to set forth a requirement for operation by air carriers of computer reservation systems used by travel agents so as to prevent unfair, predatory, and anticompetitive practices in air transportation.

§ 256.2 Applicability.

This rule applies to air carriers or foreign air carriers that own, control, or operate computerized reservation systems for travel agent subscribers in the United States, and the sale in the United States of interstate, overseas, and foreign passenger air transportation through such systems.

§ 256.3 Definitions.

"Carrier" means any air carrier, any foreign air carrier, and any commuter air carrier, as defined in 49 U.S.C. 1301(3), 49 U.S.C. 1301(22), and 14 CFR 298.2(f), respectively that is engaged directly in the operation of aircraft in passenger air transportation.

"Display" means the system's presentation of carrier schedules, fares, rules or availability to a subscriber by means of a computer terminal.

"Subscriber" means a ticket agent, as defined in 49 U.S.C. 1301(40) of the Act, that holds itself out as a neutral source of information about, or tickets for, the air transportation industry in general, and that has entered into an agreement for the use of a system.

"System" means a computerized airline reservation system offered by a carrier to subscribers, for use in the United States that contains information about schedules, fares, rules or availability of other carriers and that provides subscribers with the ability to issue tickets.

"System vendor" means a carrier that owns, controls or operates a system.

"Designator code" means the airline designations allotted and administered pursuant to Agreements CAB 24606 and 26056.

§ 256.4 Display of Information.

(a) A system vendor shall not deny access to its system to two or more carriers whose flights share a single designator code, absent a determination by the Board that the use of the code constitutes a violation of section 411.

(b) A system vendor shall not discriminate against any carrier on the basis of that carrier's using the same designator code as another carrier, either by display bias or any other means.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–6849 Filed 3–12–84; 8:45 am]

BILLING CODE 6320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AO–FRL–2523–6]

National Emission Standards for Hazardous Air Pollutants; Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, and Benzene Storage Vessels; Proposed Withdrawal of Proposed Standards

Correction

In FR Doc. 84–6039, beginning on page 8386 in the issue of Tuesday, March 6, 1984, in the first column, in the "Dates" paragraph, in the second line, the date should read "April 5, 1984".

BILLING CODE 1505–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–6510]

Proposed Flood Elevation Determination; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Emergency Management Agency has published a list which included the proposed flood elevation determination for the Unincorporated Areas of Clark County, Indiana. This notice will serve to delete Clark County, Indiana from that list.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the Unincorporated Areas of Clark County, Indiana, published at 48 FR 20696, on May 9, 1983, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator.

Issued March 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–6656 Filed 3–12–84; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6563]

Proposed Flood Elevation Determination; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction

SUMMARY: The Federal Emergency Management Agency has published a listing which included the proposed modified flood elevation determination for the City of Newport, Jackson County, Arkansas. This notice will serve to delete the City of Newport, Jackson County Arkansas, from that list. The proposed rule referenced a newspaper publication at which time a 90-day appeal period would be initiated. In fact, no 90-day appeal period was required for this community, as the revised Flood Insurance Rate Map (FIRM) did not change base flood elevations.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the deletion of the Notice of Proposed Modified Determinations of base (100-year) flood elevations for the City of Newport, Jackson County, Arkansas, as published on October 17, 1983, at 48 FR 47015.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to the Administrator, State and Local Programs and Support)

Issued: March 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-6657 Filed 3-12-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 83-153; RM-4219]

FM Broadcast Station in Cuba, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action denies a proposal to assign Class C FM Channel 274 to Cuba, New Mexico, in response to a petition filed by Ovie Cowles. No party expressed an interest in applying for this channel.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Cuba, New Mexico). (MM Docket No. 83–153; RM–4219).

Adopted: February 29, 1984.
Released: March 7, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 11471, published March 18, 1983, proposing the assignment of Class C FM Channel 274 to Cuba, New Mexico, as its first FM assignment.[1] Originally, the petitioner, Ovie Cowles ("Cowles") requested that Channel 294 be assigned to Cuba. However, the *Notice* proposed Channel 274 in order to avoid a conflict with a pending proposal for Channel 296A for Los Alamos, New Mexico (MM Docket No. 83–22). Subsequently, on September 27, 1983, FM Channel 296A was assigned to Los Alamos, New Mexico. *Report and Order*, 48 FR 45401 published October 6, 1983.[2] An opposition to the proposal was filed by D. Matthew Runnels ("Runnels").

2. Runnels urged the Commission to consider the assignment of Channel 294 to Cuba, New Mexico, as originally requested. Runnels contends that the Commission's proposal for Channel 274 is not as suitable for wide area coverage. According to Runnels, the site restriction imposed on Channel 274 would require construction of a tower in excess of 1,000 feet in order to achieve wide-area coverage comparable to the coverage which would be provided by a Channel 294 facility with a reasonably feasible antenna height above ground. Runnels alleges that the potential cost of such a facility is a valid consideration, citing *Washington, N.D.*, 51 R.R. 2d 1297 (1982). In further support, Runnels claims that based on engineering studies, a Channel 294 facility would serve 43,186 more persons and 3,435 more square miles within its primary (1 mV/m) contour that the Channel 274 facility. Runnels further claims that a Channel 294 facility would serve more unserved and underserved areas than a Channel 274 facility. Cowles has withdrawn his interest in applying for Channel 274 at Cuba.

3. As earlier noted, the *Notice* proposed the assignment of Channel 274 to Cuba, New Mexico, because the original request by Cowles for Channel 294 was in conflict with the proposal to add Channel 296A to Los Alamos, New Mexico. Recently, Channel 296A was assigned to Los Alamos since we did not treat the two proposals as mutually exclusive. Specifically, the two proceedings were handled separately because: (1) Other channels (both Class C and Class A) were available for assignment to Cuba, and (2) no other FM channels could be assigned to Los Alamos. Consequently, we saw no reason to delay the Los Alamos proceeding. We disagree that the Cuba proceeding should have been consolidated with the Los Alamos proposal. While Runnels asserted that a Channel 294 facility would provide more coverage to underserved areas outside Cuba, he failed to provide sufficient information as to what area would receive a first or second FM or aural service if Channel 294 were assigned to Cuba. Consequently, there is no way to confirm that unserved and underserved areas would be benefitted by the Channel 294 counterproposal. Although it may be true that more people could receive Channel 294, the number of potential listeners has generally not been a basis for a new allocation because under that factor the more populated markets would get the assignment rather than the areas in greater need of service. The needs of Cuba for a first local aural service could be met by the assignment of Channel 274 or even by a Class A channel assignment. Consequently, there is no conflict between the instant proceeding and our action in Los Alamos. Since we had no basis for considering the assignment of Channel 294 when to do so would deprive Los Alamos of a new channel assignment, we find that it is appropriate to deny Runnels' request. As for Channel 274, no party has expressed an interest in applying for the channel at Cuba. Thus, we shall not make that assignment at this time.

4. Accordingly, it is ordered, that the petition filed by Ovie Cowles is denied.

5. It is further ordered That this proceeding is terminated.

6. For further information concerning the above, contact Arthur Scrutchins, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-6641 Filed 3-12-84; 8:45 am]

BILLING CODE 6712-01-M

[1] A site restriction of 4.7 miles west of the city is required due to FM Station KEVR in Espanola, New Mexico.

[2] In the *Report and Order*, the Commission noted that the Los Alamos proceeding had been coordinated with the instant proceeding to assign Channel 274 for Cuba, New Mexico. Runnels has submitted a petition for reconsideration of the Los Alamos assignment and a motion to hold the action in abeyance.

Notices

Federal Register
Vol. 49, No. 50
Tuesday, March 13, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

National Voluntary Service Advisory Council; Meeting

AGENCY: ACTION.

ACTION: National Voluntary Service Advisory Council; Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the National Service Advisory Council (Council) will be held on March 14, 1984 from 9 a.m.–4 p.m. For further details concerning the meeting location, contact Suzanne Wise, Confidential Assistant to the Director at (202) 634–9380.

The purpose of this meeting is to choose the individuals to recommend for the 1984 President's Volunteer ACTION Awards. In accordance with the determination of the Director of ACTION, the meeting will be closed to the public pursuant to subsection (c)(9)(B) of section 522b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, N.W., Washington, D.C. 20525 during the regular working hours of 8:30 a.m. to 5:15 p.m.

The short notice period is a result of repeated scheduling difficulties experienced by the Agency in attempting to secure the largest participation by Advisory Council members in the award selection.

Signed this 7th day of March 1984, in Washington, D.C.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 84–6671 Filed 3–12–84; 8:45 am]
BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Continental Telephone Company of the South Claxton, Georgia; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA), USDA

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22 (Guarantee of Loans for Telephone Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $26,138,000 to Continental Telephone Company of the South (Continental South), of Claxton, Georgia. This loan guarantee will be used to finance telephone facilities to serve 150,345 subscribers, including 10,319 new subscribers over 27,179 miles of plant in the States of Alabama, Florida, and Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. W. C. Roach, President, Continental Telephone Company of the South, P.O. Box 401, Merrifield, Virginia 22116.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. W. C. Roach at the address given above.

In order to be considered, proposals must be submitted on or before April 12, 1984, to Mr. Roach. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Continental South and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.

Dated: March 7, 1984.

Harold V. Hunter,
Administrator.

[FR Doc. 84–6669 Filed 3–12–84; 8:45 am]
BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–469–053]

Oleoresins of Paprika From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an Administrative review of the countervailing duty order on oleoresins of paprika from Spain. The review covers the period July 1, 1981 through December 31, 1982. As a result of the review, the Department has preliminarily determined the net subsidy to be 1.48 percent *ad valorem* for the period July 1, 1981 through December 31, 1981, and 0.79 percent *ad valorem* for 1982. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Victoria Marshall or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 40538) the final results of its last administrative review of the countervailing duty order on oleoresins of paprika from Spain (45 FR 11214, February 28, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the

Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Spanish oleoresins of paprika. Such merchandise is currently classifiable under item 450.2010 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1981, through December 31, 1982, and three programs: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"), (2) an operating capital loans program, and (3) regional development incentives.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportacion.* Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by the Department. The rebate of two final stage taxes, the parafiscal tax on export licenses and the tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under DFE.

As of January 1, 1982, the Spanish government increased the IGTE rate from 3.80 percent to 4.60 percent, while maintaining the previous rate for the export rebate. We concluded in our last administrative review that an earlier increase in the IGTE rate had eliminated the overrebate previously found countervailable. Based on our analysis of the indirect taxes on physically incorporated inputs and the allowable final stage taxes on oleoresins of paprika, we preliminarily find that the additional change in the IGTE rate for 1982 continues to eliminate that overrebate. Therefore, we preliminarily determine the net subsidy attributable to this program during the period of review to be zero percent.

(2) *Operating Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For the second half of 1981 and for 1982, the Spanish government fixed the interest rate for such loans at 10 percent. To determine the interest rate on comparable commercial loans, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.43 percent in 1981 and 9.38 percent in 1982. Using the actual loan amounts outstanding during the review period, we preliminarily determine the net subsidy conferred under this program to be 1.48 percent *ad valorem* for July 1, 1981 through December 31, 1981 and 0.79 percent *ad valorem* for 1982.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Some oleoresins manufacturers are holders of such Exporter's Cards. Effective January 1, 1984, the Spanish government reduced the maximum percentage of eligibility for exporters of oleoresins of paprika to 9 percent. By multiplying the maximum eligibility level (9 percent) by the interest rate differential for 1982 (9.38 percent), as the most recent information available, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy currently attributable to this program is 0.84 percent *ad valorem*.

(3) *Regional Development Incentives.* We also examined a regional development incentives program and preliminarily find that exporters of oleoresins of paprika did not use it during the review period.

Preliminary Results of the Review

As a result of the review, we preliminarily determine that the aggregate net subsidy conferred by the program is 1.48 percent *ad valorem* during the period July 1, 1981 through December 31, 1981 and 0.79 percent *ad valorem* during 1982. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.48 percent of the f.o.b. invoice price on all shipments of Spanish oleoresins of paprika exported on or after July 1, 1981 and on or before December 31, 1981, and 0.79 percent of the f.o.b. invoice price on all shipments of Spanish oleoresins of paprika exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982, and through the date of the ITC's notification to the Department of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.84 percent of the entered value on all shipments of Spanish oleoresins of paprika entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will

publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-6673 Filed 3-12-84; 8:45 am]

BILLING CODE 3510-05-M

Unwrought Zinc From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on unwrought zinc from Spain. The review covers the period January 1, 1981 through December 31, 1982. As a result of the review, the Department has preliminarily determined the net subsidy to be 1.83 percent *ad valorem* for 1981 and 2.69 percent *ad valorem* 1982. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 35689) the final results of its last administrative review of the countervailing duty order on unwrought zinc from Spain (41 FR 18587, April 8, 1977) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff of 1930 ("the Tariff Act"), the Department has not conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Spanish unwrought zinc, other than alloys of zinc. Such merchandise is currently classifiable under item 626.0200 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1982 and two programs that we previously found countervailable: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"); and (2) an operating capital loans program. The review also covers four additional programs.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportacion.* Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporation inputs are the raw materials previously allowed by the Treasury Department. The rebate of two final taxes, the Juan de la Cierva metals tax and the tax on freight and insurance, is also allowable when calulating whether or not there is an overrebate of indirect taxes under the DFE.

On January 1, 1981, the Spanish government increased the IGTE tax rate from 2.40 percent to 3.80 percent. The IGTE tax rate was again increased on January 1, 1982 to 4.60 percent. The DFE rebate upon export of unwrought zinc did not change in either 1981 or 1982. Based on our analysis of the indirect taxes on physically incorporated inputs and the tow indirect taxes on the final product, we determine that an overrebate on export equal to 0.13 percent *ad valorem* existed in Spain during the period January 1, 1981 through December 31, 1981, and the change in aggregate indirect tax incidence has eliminated the overrebate during the period January 1, 1982 through December 31, 1982.

(2) *Operating Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For the first two months of 1981, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.50 percent below the legally established commercial interest rate of 9.50 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on coparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining ten months in 1981 and for calendar year 1982, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate for the operating capital loans program, we found a differential of 9.45 percent in 1981 after March 1, and of 9.38 percent in 1982.

We calculated the benefit under this program by multiplying the total amounts of loans received in 1981 and 1982 by the appropriate differentials. We then divided the results by total exports in each of those years. Using this methodology, we preliminarily determine the net benefit conferred under this program to be 1.70 percent *ad valorem* for 1981, and 2.69 percent *ad valorem* for 1982.

Effective January 1, 1984, the Spanish government reduced the maximum percentage of eligibility for operating capital loans to 9 percent of the previous year's exports. Spanish zinc producers have used their maximum eligibility. Therefore, by multiplying this new eligibility level by the interest rate differential for 1982 (9.38 percent) as the most recent information available, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy currently attributable to this program is 0.84 percent *ad valorem*.

(3) *Other Programs.* We also examined the following programs and preliminarily find that exporters of unwrought zinc did not use them during either 1981 or 1982.

A. Other Privileged Circuit Exporter Credit Programs;

B. Research and Development Incentives;

C. Regional Incentive Programs; and

D. Research and Development under the Juan de la Cierva Program.

Preliminary Results of the Review

As a result of the review, we preliminarily determine that the aggregate net subsidy conferred by the two programs is 1.83 percent *ad valorem* during 1981 and 2.69 percent *ad valorem* during 1982. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.83 percent of the f.o.b. invoice price on all shipments of Spanish unwrought zinc exported on or after January 1, 1981 and on or before December 31, 1981, and of 2.69 percent for shipments of this merchandise exported on or after Jnauary 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before April 22, 1982.

On April 23, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1982, and through the date of the ITC's notification to the Department of its determination.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.84 percent of the entered value on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 6, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-6672 Filed 3-12-84; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before April 2, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00009."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-1531, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A cerificate of review protects its holders and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards For Certification

Proposed export trade, export trade activities, and methods of operations may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below.

Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review.

Applicant: Opti-Copy, Inc., 10930 Lackman Road, Lenexa, Kansas 66219, Telephone: 913/492–3322.

Application: #84–00009.

Date Received: February 23, 1984.

Date Deemed Submitted: February 28, 1984.

Members In Addition to Applicant: J. H. Wally, III of Lenexa, Kansas; J. R. Clagett of Overland Park, Kansas; J. C. Wally of Shawnee Mission, Kansas; and John W. Wally, M.D. of Shawnee Mission, Kansas.

Controlling Entity: None.

Summary of Application: Opti-Copy, Inc. has submitted an application seeking certification for the following export-related activities:

A. Export Markets

The Applicant and its members intend to export products and services on a worldwide basis, including but not limited to the Middle East, Africa, Far East, Latin America and Europe.

B. Export Trade

The Applicant and its members intend to export graphic arts prepress imaging equipment and engineering, architectural, seismic and carto-graphic cameras/projectors and all services related to the sales and maintenance of the Applicant's products, including advertising and marketing of its products and providing technical application and assistance to end-users and representatives.

C. Export Trade Activities and Methods of Operation

The Applicant and its members seek certification for the following activities: (1) entering into exclusive and non-exclusive agreements with U.S. suppliers, including suppliers within the same industry; (2) entering into, refusing to enter into, and from time to time terminating, exclusive and non-exclusive agreements with distributors, agents, sales representatives and customers located in foreign countries and in the United States for goods and services being exported or in the course of being exported; (3) entering into, refusing to enter into, and terminating license agreements for patents, trademarks, tradenames, know-how or technical assistance. The foregoing agreements may contain territorial, customer, price and/or quantity restrictions.

In addition, the Applicant and its members seek to have certified the "packaging" of quotations responsive to invitations to bid, including the supply of products or services in the same industry and the designation and coordination of the sharing of business among the suppliers. The Applicant and its members propose to consult and exchange information with competitors to ascertain the existence of, prepare bids for and share business from foreign customers. The Applicant may take title to goods from time to time for ultimate exportation or act as a broker, sales representative, distributor and/or an agent for suppliers, which may include competitors.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: March 8, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–6743 Filed 3–12–84; 8:45 am]

BILLING CODE 3510-DR-M

National Technical Information Service

Intent to Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Integrated Genetics, Inc., having a place of business at Framingham, Massachusetts 01701, an exclusive right to manufacture, use, and sell products embodied in the invention, "Recombinant DNA Process Utilizing a Papilloma Virus DNA as a Vector," U.S. Patent No. 4,419,446. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84–6650 Filed 3–12–84; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 6, 1984.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will meet at Wright-Patterson AFB, OH on April 3, 1984 from 8:30 a.m. to 5:00 p.m. and on April 4, 1984 from 8:30 a.m. to 1:00 p.m. in Room 222, Building 14, Area B.

The purpose of the meeting will be discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–6689 Filed 3–12–84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee Strategic Planning Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Planning Task Force will meet on March 28–29, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of the meeting is to evaluate alternative strategic planning methods for developing future naval warfare capabilities. The entire agenda for the meeting will consist of discussions of key issues related to the rapid development and fielding of cost-effective, integrated warfighting capabilities. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United State Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756–1205.

Dated: March 8, 1984.

William F. Roos, Jr.

Lieutenant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 84–6676 Filed 3–12–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Federal Education Data Acquisition Council

AGENCY: Office of Management, Ed.

ACTION: Notice of data acquisition activities approved under the Control of Paperwork Amendments of 1978.

SUMMARY: The Secretary publishes as listing of approved education-related data acquisition activities that Federal agencies will use to collect data from educational agencies and institutions during school year 1984–85. Section 400A of the General Education Provisions Act requires that a listing of approved information collection activities be published in the **Federal Register.** In accordance with procedures approved by the Federal Education Data Acquisition Council (FEDAC) and the Office of Management and Budget (OMB), the Secretary and the OMB have reviewed and approved data acquisition activities included in this notice.

DATES: Comments will be received on a continuing basis.

ADDRESS: Comments should be addressed to Mrs. Margaret B. Webster, Director, Division of Education Information Management, Room 4074, Switzer Building, 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone: (202) 426–7304.

SUPPLEMENTARY INFORMATION: Under the Control of Paperwork Amendments of 1978, Section 400A of the General Education Provisions Act (the Act), the Secretary of Education is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

In addition, the Act requires the Secretary to "publish annually a listing of education data requests, by Federal agency, and for the programs administered in the ED * * *"

The following material constitutes this annual listing. An explanation of the numerical codes used in this listing are:

The "Purpose" column contains numerical codes that describe Federal use of the information:

1 Application for Benefits
2 Program Evaluation
3 General Purpose Statistics
4 Regulatory or Compliance
5 Program Planning or Management
6 Research
7 Audit

The "Type" column contains numerical codes that describe the type of respondents:

1 Individuals or Households
2 State or Local Governments
3 Farms
4 Businesses or Other For Profit
5 Federal Agencies or Employees
6 Non-Profit Institutions
7 Small Businesses or Organizations

The "SIC (Standard Industrial Classification) Code" column contains numerical codes that classify establishments by type of activity in which they are engaged. Some of the more common codes related to educational programs are:

601 Federal Reserve Banks
602 Commercial and Stock Savings Banks
603 Mutual Savings Banks
604 Trust Companies Not Engaged in Deposit Banking
605 Establishment Performing Functions Closely Related to Banking
821 Elementary and Secondary Schools
822 Colleges and Universities
823 Libraries and Information Centers
824 Correspondence and Vocational Schools
941 Administration of Educational Programs (State Educational Agencies)
999 Individuals or Not Classified

Note.—These forms are approved for use in FY 1985.

Burden Reduction

The Secretary undertook several initiatives in FY 1982 and FY 1983 to curb the growth of education-related paperwork imposed by Federal agencies.

First, the Secretary decided that primary methods for implementing the Act rests with his review authority, and the public notice provision under Section 400A(b)(2)(A). The notices, as published in the **Federal Register** in 1982 and 1983, were comprehensive listings of data acquisition activities for those years. Outside groups concerned with education paperwork activities provided comments on a number of the information collections in these listings. In addition, the Secretary sought advice and comments from outside groups on education paperwork activities. Regular meetings were held with the Council of Chief State School Officers' Committee on Education and Information Systems (CCSSO/CEIS) and the State Higher Education Executive Officers (SHEEO). These meetings held in consultation with agency officials, established a forum for sharing of information, reducing burdensome reporting, and identifying areas where additional oversight was required.

Second, emphasis was placed on integrating into the review process Federal agencies that previously were not aware of the Secretary's coordinating authority. A concerted effort was made to alert agencies of

their responsibilities under the Act, and to provide technical assistance. The number of Federal agencies grew from eight in FY 1980 to 19 in FY 1984, as reflected by this annual listing.

The FY 1984 plans for achieving further education-related paperwork reductions will focus on promoting information sharing among Federal agencies, and reviewing how various agency data collections affect the total delivery of services to the education community.

Current activities focus on promoting information sharing through the use of common definitions, terms and statistical methods. This will permit agencies to carry out their information collections activities in a way least burdensome to respondents. This effort resulted in a significant reduction in burden hours in school year 1983–84, a 36 percent reduction in burden hours from the FY 1982 level that included the elimination of 25 reports. The combined burden reduction totaled 26.5 million hours.

Finally, the Secretary plans to convene a meeting of the Federal Education Data Acquisition Council in FY 1984 to assess policies and procedures related to information collections and the Federal role in education.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations on this notice to the address given at the beginning of this document. All comments will be considered in future reviews of these forms. All comments submitted in response to this notice will be available for public inspection in Room 4074, Switzer Building, 330 C Street, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Dated: March 5, 1984.

T. H. Bell,

Secretary of Education.

DEPARTMENT OF AGRICULTURE

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Agriculture Research Service						
College University Faculty in the Food and Agricultural Sciences.	0518-0011	5	2 and 4	822	108	618
ABSTRACT: This information is essential to implementing a comprehensive plan for strengthening colleges and university faculty, advancing the nation's capacity to produce college graduates with food and agricultural expertise, and promoting cooperative action between government, industry, and educational institutions for the purpose of improving higher education in the food and agriculture sciences.						
Total Number of Respondents and Hours.					108	618
Food and Nutrition Service						
7 CFR Part 215—Special Milk Program for Children—Reporting.	0584-0005	1	2 and 4	821, 836, and 832	114,150	593,695
ABSTRACT: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and reporting requirements necessary to retain program funds and notify USDA of the results of program operations.						
Part 210—National School Lunch Program—Reporting Burden.	0584-0006	1	2	943	2,156,624	23,394,661
ABSTRACT: Provides requirements for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation.						
7 CFR Part 220—School Breakfast Program—Reporting.	0584-0012, FNS 74	2 and 4	2 and 4	821 and 836	536,512	84,676
ABSTRACT: Form is used to set policies for the administration of the School Breakfast Program by State agencies and for its operation by local school authorities.						
7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting.	0584-0026	4	2 and 4	821, 836, and 881	5,430,309	1,124,959
ABSTRACT: Sets forth policies and procedures for use by State administering agencies and local program operators in reporting on program operations.						
Cash in Lieu of Commodities—Reporting.	0584-0046	1	2	911 and 943	60,584	60,630
ABSTRACT: Rules require State agencies to inform FNS of the amount to be received in cash payments by or on behalf of such schools.						
Nutrition Education and Training Program Regulations (7 CFR 227) (Reporting).	0584-0062, FNS 42, State Plan.	1	2	821	2,514	98,090
ABSTRACT: FNS 42—Participation report is used to assess program implementation status, monitor program accomplishments, and evaluate States' progress in achieving the goals and objectives outlined in the State Plan.						
7 CFR Part 235—State Administrative Expenses—Reporting FNS-525.	0584-0067	4	2	941	2,008	6,698
ABSTRACT: Section 7 of the Child Nutrition Act of 1966 (P.L. 89-642, as amended), authorizes USDA to provide federal funds to State agencies for costs to administer the National School Lunch Program, School Breakfast Program, Special Milk Program for Children and Child Care Food Program. Part 235 sets forth procedures for use by State agencies to report their need for SAE funds and their use of these funds.						
7 CFR 215—Special Milk Program for Children—Applications and Agreements.	0584-0270	2 and 4	2 and 4	821, 836, and 832	19,757	4,449
ABSTRACT: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and requirements governing recipient organizations' application for the initiation of program operations and the receipt of program funds.						
7 CFR Part 215—Special Milk Program for Children—Recordkeeping.	0584-0272	2 and 4	2 and 4	821, 836, and 832	3,302,870	452,594
ABSTRACT: These regulations set forth policies for the administration of the program by State agencies and for its operation by local level organizations, and recordkeeping requirements necessary to document program compliance.						
Cash in Lieu of Commodities—Recordkeeping.	0584-0273	2 and 4	2 and 4	911 and 943	60,500	121,000

DEPARTMENT OF AGRICULTURE—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden: Number of respondents	Respondent burden: Hours
ABSTRACT: The regulations require State agencies, schools and institutions, in accordance with the provisions of the National School Lunch Act to retain records on the receipt and disbursement of funds.						
Part 210—National School Lunch Program (Recordkeeping).	0584-0278	2	2	943	59	177
ABSTRACT: Provides options for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation.						
Nutrition Education and Training Program Regulations (7 CFR 227).	0584-0282	2	2	821	114	16,074
ABSTRACT: The compilation of recordkeeping data as specified in Section 19 of the Child Nutrition Act, as amended. State agencies may use their records as internal management tools.						
7 CFR Part 220—School Breakfast Program—Recordkeeping.	0584-0310	2 and 4	2 and 4	821 and 836	19,015,045	5,379,497
ABSTRACT: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and recordkeeping requirements necessary to document program compliance.						
7 CFR Part 220—School Breakfast Program—Applications.	0584-0311	1	2 and 4	821 and 836	11,400	3,165
ABSTRACT: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and requirements governing local organizations' application for the initiation of program operations and the receipt of program benefits.						
7 CFR Part 235—State Administrative Expenses Recordkeeping.	0584-0319	4	2	821	99,711	27,647
ABSTRACT: Section 7 of the Child Nutrition Act of 1966 (P.L. 89-642, as amended), authorizes USDA to provide federal funds to State agencies for the costs they incur to administer the National School Lunch Program, School Breakfast Program, Special Milk Program for Children and Child Care Food Program. Part 235 sets forth recordkeeping requirements for use by State agencies in accounting for SAE funds.						
7 CFR Part 230—Food Service Equipment Assistance Program—Recordkeeping.	0584-0335	4	2	821	3,553	10,993
ABSTRACT: The Omnibus Budget Reconciliation Act of 1981 repealed Section 5 of the Child Nutrition Act of 1966 (P.L. 89,642, as amended 42 U.S.C. 1751) that authorized the Food Service Equipment Assistant Program. The Regulations submitted with this proposal set forth recordkeeping requirements necessary to show compliance with program requirements and applicable OMB circulars.						
Total Respondents and Burden Hours.					30,815,710	31,379,005

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden: Number of respondents	Respondent burden: Hours
Health Services Administration						
Application-Scholarship Program For First-Year Students of Exceptional Financial Need.	0915-0028, HSA-525, HSA-526.	1	4	822	300	75
ABSTRACT: This form is used to insure that funds are allocated to participating schools according to statutory requirements, to update school records, to identify students and to make awards.						
Other Reasonable Educational Expense Data Collection Worksheet.	0915-0029, HRA 272	2	2	822	900	1,800
ABSTRACT: The data collected will be used by the NHSC and EFN scholarship programs. The information will be used to comply with the other reasonable educational expenses payment stipulation of P.L. 97-35. This information is also used as a management tool that schools and PHS use to comply with other P.L. 97-35 requirements.						
Borrower Status Form	0915-0033	1 and 4	1 and 4	602	4,000	2,000
ABSTRACT: Borrowers are requested to submit a borrower status report to their lenders to notify them of their current participation status. When a deferment is authorized, the borrower is required to submit a borrower status form which verifies the activity of the borrower.						
Health Education Assistance Loan Program Lender's Manifest.	0915-0034	4	4	602	400	400
ABSTRACT: This form provides precise information relative to loan disbursement (full and partial), collection of insurance premiums, conversions of in-school notes to pay-out status and paid in full loans.						
Health Education Assistance Loan Program Loan Transfer Statement.	0915-0035	4	4	602	20	20
ABSTRACT: The purpose is to notify the Federal government of the note transfer between two parties (two eligible lenders). It also constitutes formal agreement that the buyer succeeds to all rights and responsibilities of the seller under the contract of insurance.						
Lender's application for Insurance Claim on HEAL Loan.	0915-0036	1 and 4	4	602	400	400
ABSTRACT: This is the default claims instrument and method of obligating funds for the payment of a claim when the borrower refuses to repay his/her loan.						
Lender's Application for Contract of Federal Loan Insurance (HEAL).	0915-0037	1 and 4	4	602	20	10
ABSTRACT: This form will be used to provide the basis for issuing contracts of insurance to eligible lending institutions.						
Student Application for a Health Education Assistance Loan.	0915-0038	1 and 4	1 and 4	822 and 602	10,000	5,000
ABSTRACT: The student application for a Health Education Assistance Loan is used primarily by lending institutions to determine student eligibility for a HEAL loan. The form contains information to verify the identify of the applicant, to permit servicing of the loan, and to locate missing borrowers and collection delinquent or defaulted loans.						
Repayment Schedule and Truth-in-Lending Disclosures for Health Education Assistance Loan Program (Variable Rate) (Fixed Rate).	0915-0043, HSA 502-1, 502-2.	1 and 4	1 and 4	602	2,000	1,834

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: Provides the commercial lenders with the proper disclosure requirement and a form to develop a repayment schedule for the borrower repaying a HEAL loan.						
Health Professions Student Loan and Nursing Student Loan Programs.	0915-0044, PHS 501, HSA 520, HRA 36-10	1, 4, and 5	2 and 4	822, 808 and 806	41,515	26,675
ABSTRACT: Includes data elements covering borrower's account data and program management and data encompassing the self-audit institutional check list.						
Quarterly Debt Management Report	0915-0046	2 and 4	2 and 4	822	1,600	9,600
ABSTRACT: This report assists both the institutions and the government by pinpointing debt problems.						
Financial Aid Transcript	0915-0047	1 and 4	1 and 4	822	5,000	1,250
ABSTRACT: This information will be used to assist financial aid institutions in making HPSL Awards to applicants.						
Financial Aid Transcript—Nursing Student Loan Program.	0915-0048	1 and 4	1 and 4	822	33,000	8,250
ABSTRACT: This information will be used to assist financial aid officers at participating institutions in making NSL awards to applicants.						
Health Education assistance Loan (HEAL) Program School Recordkeeping Requirements.	0915-0054	4	1	999	400	1,600
ABSTRACT: The HEAL Program provides Federally insured loans to students attending eligible Health Professions schools. Section 739 of the PHS Act requires HEAL schools to keep certain records of HEAL student loans. Section 60.56 of the August 3, 1978 interim-final regulations and the pendig final regulations sets forth the specific records and the record retention period.						
Annual Space Utilization and enrollment Report for Nursing and Health Professions.	0915-0056, HRA-84	4	4		539	270
ABSTRACT: The Construction Assistance Programs for Nursing and Health Professions Schools continue to use this form to monitor space utilizaton in the portion of the teaching facility which received Federal assistance. Annual enrollment reports continue to be required of the nursing schools although they are no longer required of health professions schools.						
HRA Competing Training Grant Applications and Supplements.	0915-0060, PHS 6025-1	1	4	822	1,335	81,435
ABSTRACT: Form and instructions are needed to enable institutions to apply for training grants and cooperative agreements under HRA's training grant programs.						
HRSA Non-Competing Training Grant Application and Supplement.	0915-0061 PHS 6025-2	1	6	822	1,095	27,375
ABSTRACT: Information is needed and used to determine the amount of continuation grants and to assess whether sufficient progress has been made to warrant continuation. Preventive medicine residency programs with active grants constitute the affected public.						
Nursing Student Loan (NSL) Program Promissory Note.	0915-0073	1 and 4	1 and 6	999	26,200	420
ABSTRACT: These reporting and recordkeeping requirements provide the school with legal documentation of loans awarded from the NSL fund, and provide the student with the legally, binding terms of the loan.						
Health Professions Student Loan (HPSL) Program Promissory Note.	0915-0074	1 and 4	1 and 6	999	24,960	832
ABSTRACT: These reporting and recordkeeping requirements provide the school with legal documentation of loans awarded from the HPSL fund and provide the student with the legally binding terms of the loan.						
Indian Health Service Scholarship Application and Progress Reports.	0915-0080	1, 2, and 5	1	999	875	1,299
ABSTRACT: To select preparatory and Health Professions Scholarship grantees and monitor their progress. Purposes include payment tracking, incur service payback obligation, placement and claims determination. Selection based on academic performance, work experience, faculty or employee recommendations, applicant reasons for requesting scholarship and needs of IHS for Health professions staff.						
Nurse Practitioner Traineeship Grant Program.	0915-0083	1	1	999	150	22
ABSTRACT: This information is needed to maintain records and communication related to recipients of nurse practitioner traineeships who have outstanding service or payback obligations to the Federal government.						
HEAL Call Report—Lender's Annual Report on HEAL Student Loans Outstanding.	0915-0084	2, 3, and 5	4 and 6	999	73	73
ABSTRACT: Information is needed to monitor the financial status of and to ensure proper management of the HEAL program. Data will be used for program evaluation, future program directions, and legislative and policy development. Data requested from HEAL lenders.						
HEAL Promissory Note	0915-0086	1, 4, and 6	1 and 4	999	7,200	7,200
ABSTRACT: Executing this agreement creates a binding obligation of HEAL loan borrowers to repay lender or subsequent holder any monies advanced and other fees and charges permitted by Federal regulation. Executed note establishes legal right to collect any amount not paid when due. Provides notice to borrowers of terms for repayment.						
Total Respondents and Burden Hours					154,942	173,135
Centers for Disease Control						
National Evaluation of School Health Curriculum.	0920-0119	2 and 6	1 and 2	999	37,196	19,877
ABSTRACT: The Contractor will evaluate the School Health Curriculum Project and three alternative health education curricula to answer questions regarding cost-effectiveness and curricula effectiveness to improve the health behaviors and associated attitudes and knowledge of students. Information obtained will be useful at state, local, and Federal levels for implementing effective school health curricula.						
Total Respondents and Burden Hours					37,196	19,877
National Institutes of Health						
Biomedical Research Support Grant Application and Annual Progress Report.	0925-0008 NIH 147-1 147-2.	1 and 5	4	822 and 806	940	8,930
ABSTRACT: The application (NIH 147-1) provides information to determine eligibility and the award amount. The progress report (NIH 147-2) enables staff to evaluate effectiveness and conformance to guidelines.						
National Research Service Award research Training, Competing and Non-Competing Applications.	0925-0022, PHS 6025-1, 6025-2.	1 and 4	4	822 and 806	8,210	41,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: These forms are used to apply for support of training of individuals to expand and enhance skills in biomedical and behavioral research.						
Protection of Human Subjects—Certification and Recordkeeping Requirements.	0925-0137, HHS-596	4	4	999	42,000	17,241
ABSTRACT: Section 474(A) of the Public Health Service Act mandates reporting to the Secretary to review by IRB at institutions requesting support for research involving human subjects in accordance with 45 CFR 46. Records are minutes of the review.						
Relationship of Dietary Intake To Caries Incidence.	0925-0186	6	1	999	2,323	781
ABSTRACT: A three-Year longitudinal clinical trial in which associations between various dietary intake patters and the incidence of dental caries are investigated in a general population of school-age children residing in a nonfluoridated area.						
Total Respondents and Burden Hours					53,473	68,252
Office of the Assistant Secretary for Health						
Financial Status Report	0937-0107	5	1, 2, and 4	806, 807, 822, 823, and 943	29,800	44,700
ABSTRACT: Grantees are required to use the SF 269 to report the status of funds for each supported project. Awarding offices use the information to monitor funds and for financial planning.						
National Children and Youth Fitness Study (Pilot Test).	0937-0113	6	1	999	1,044	1,305
ABSTRACT: This is a nationwide study to assess the fitness levels of American school children who use school and community physical fitness and exercise programs and to determine the relationship between participation in programs and measured levels of fitness.						
Total Respondents and Burden Hours					30,844	46,005
Social Security Administration						
Report of Individual with Childhood Impairment.	0960-0084, SSA 1323	4 and 5	4	801, 806, and 804	75,000	25,000
ABSTRACT: The Information elicited by this form is needed to determine if a claimant for childhood disability benefits has an impairment that meets the severity and duration requirements of the law.						
Total Respondents and Burden Hours					75,000	25,000
Departmental Management						
Evaluation of NIDA Drug Abuse Media Campaign.	0990-0116	2	1	999	9,420	1,255
ABSTRACT: Pre and Post Media Campaign Surveys are needed to measure changes in attitudes toward drugs among 12-14 year old youth and their parents. Survey results will be used to alter media messages and to inform policy makers concerning the efficacy of media prevention campaigns.						
Total Respondents and Burden Hours					9,420	1,255

DEPARTMENT OF THE INTERIOR

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Bureau of Indian Affairs						
Subchapter E—Education 25 CFR, Parts 31-34 45 CFR, Part 121.	1076-0018	1 and 2	1 and 2	999	149,595	56,667
ABSTRACT: These forms are necessary to ensure program integrity in the education of Indian and Alaskan children.						
Total respondents and burden hours					149,595	56,667
Bureau of Mines						
Mining and Materials Resources and Research Institutes Program (MMRRI).	1032-0116	1	1	999	361	2,800
Total respondents and burden hours.					361	2,800

EMPLOYMENT STANDARDS ADMINISTRATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Work Experience and Career Exploration Program.	1215-0121, ESA-WH 570.	2	2	821	10	2,298
ABSTRACT: Wage and hour requirement that State Educational Agencies file an application prior to implementation of programs. Recordkeeping requirement to retain signed training agreement for each enrollee in each school.						
Total Respondents and Burden Hours					10	2,298

INTERNAL REVENUE SERVICE

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Annual Certification of Racial Non-Discrimination for a Private School Exempt from Federal Income Tax.	1545-0213, 5578	4	4	821, 822, 824, and 829	1,000	736
ABSTRACT: Form 5578 is used by private schools that do not file form 990, Schedule A, to certify that they have a racially non-discriminatory policy toward students, as outlined in revenue procedure 75-50. The service uses the information to help ensure that the school is maintaining a non-discriminatory policy in keeping with its exempt status.						
Certification of Youth Participating in a Qualified Cooperative Education Program.	1545-0244, 6199	2 and 4	2 and 4	833, 839, and 919	64,000	47,424
ABSTRACT: IRC Section 51(D)(8) requires that qualified school cooperative programs must certify their qualified students as youths participating in a qualified cooperative program in order for wages paid to the student by an employer to qualify for the jobs credit. Form 6199 provides for this certification.						
Application to Sponsor Student Tax Clinic.	1545-0471, P-687	1 and 4	4	822	50	25
ABSTRACT: The purpose of the pattern letter is to record the institution's application for clinic sponsorship and agreement to meet IRS requirements to conduct the clinic.						
Taxpaper Education Film Transmittal Notice.	1545-0711	2	2, 4, and 6	822 and 823	5,400	810
ABSTRACT: Form is necessary to inform film users of the date film is to be returned to IRS. To ask for feedback on numbr of viewers of film, condition of film, and to provide information/license for reproducting the film.						
Understanding Taxes Teacher Evaluation (1984).	1545-0779	2	2	822 and 823	15,000	3,750
ABSTRACT: Design of new course modules and recent development of new form, 1040EZ, demands substantive input frim educators to determine effectiveness of course materials being provided thousands of students nationwide. This course evaluation will significantly aid in developing future materials thereby furthering the agency's commitment to enchance taxpaper education.						
Total Respondent and Burden Hours.					85,450	52,745

ENVIRONMENTAL PROTECTION AGENCY

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC Code	Respondent burden	
					Number of respondents	Hours
Friable Asbestos-Containing Materials in Schools: Identification and Notification Rule.	2000-0463	2	2	999	129,000	327,400
ABSTRACT: The information to be recorded by schools and school districts is needed in order to inform school users of the presence of potentially hazardous materials in their buildings. The information will also be used by EPA in compliance monitoring.						
Total Respondents and Burden Hours					129,000	327,400

VETERANS ADMINISTRATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
School Attendance Report	2900-0057, 21-674B	1	4 and 6	822, 824, and 829	39,500	3,300
ABSTRACT: This form is used to verify attendance in school or training program where benefits are authorized and to report termination of any program.						
Enrollment Certification (Under Chapter 34, or 35 Title 38 U.S.C.).	2900-0073, 22-1999, 22-1993A.	1 and 5	4 and 6	822 and 824	1,000,000	200,000
ABSTRACT: The form certifies enrollment or training data which is used by the VA in determining rate of benefits.						
Notice of Change in Student Status—Institutional Courses Only.	2900-0156, 22-1999B	2	4 and 6	822	1,012,000	84,375
ABSTRACT: The form is used by school certifying officials to report a change in the enrollment status of a student. The information required is used by the VA as a basis for adjustment of the student's benefits.						
Compliance Report of Proprietary Institutions.	2900-0180, VA 27-4274	4	4 and 6	822 and 824	649	649
ABSTRACT: The form is needed to assist in appraising equal opportunity compliance of recipient of federal financial assistance, to assure non-discrimination on the bases of race, color, national origin, or sex and in education, or training programs in proprietary schools below college level.						
Veterans Application for Work Study Allowance.	2900-0209, 20-8691	1	1	999	50,000	12,500
ABSTRACT: VA Form 20-8691 is needed to identify those veteran students who wish to apply for the supplemental VA work-study benefit and to assist the VA in selecting eligible applicants (38 U.S.C. 1685)						
Title VI Compliance Review Report	2900-0210, 27-8734, 27-8734A.	4	4 and 6	822, 824, and 829	616	262
ABSTRACT: The form is necessary to determine equal opportunity compliance status of proprietary institutions and job-training establishments which are approved to train veterans and other eligible beneficiaries, and proprietary institutions which are receiving funds through the Department of Education.						
Application for Education Loan	2900-0236, 22-8725	1	1	999	840	560
ABSTRACT: The information requested on this application (required by 38 U.S.C. 1798) is necessary to determine the student's entitlement to a VA education loan.						
Designation of Certifying Official	2900-0262, 22-8794	5	4 and 6	822 and 824	6,000	1,000
ABSTRACT: This report, authorized by 38 U.S.C. 1784, is used by a responsible official of the school or training establishment to designate certifying officials for that school or establishment. The VA subsequently accepts certification signed by the designated certifying officers.						
Application for Educational Assistance (Under VEAP).	2900-0263, 22-8821	1	1	999	35,000	26,250

VETERANS ADMINISTRATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: The information requested on the form is necessary to determine the applicant's eligibility to educational assistance under Chapter 32, Title 38 U.S.C., or Section 903, P.L. 96-342.						
Application for Participation in the Veterans Administration Health Professional Scholarship Program.	2900-0352, 10-0003, 10-0003A, 10-0003B.	1	1	999	3,000	3,000
ABSTRACT: This application would be used to determine the eligibility and suitability of applicants to be awarded scholarships under the provisions of Title II, P.L. 96-330.						
Certification of Lessons Completed	2900-0353, 22-6553B	5	1 and 6	822 and 824	27,419	4,570
ABSTRACT: This form is used by students and schools to report on a quarterly basis the number of correspondence lessons completed by the student and serviced by the correspondence school (38 U.S.C. 1780(B), 38 CFR 21.4203(E)).						
Certification of Attendance For Courses Not Leading to a Standard College Degree and Farm Cooperative Courses.	2900-0354, VA22-6553a..	1	1, 4, and 6	822, 824, and 999	302,000	50,333
ABSTRACT: This form is used by trainees and schools to certify attendance for courses not leading to a standard college degree and farm cooperative courses under Chapter 32, 34 and 35 of Title 38, U.S.C., and Section 903 of P.L. 96-342						
Supplemental Information for Change of Program or Re-Enrollment After Unsatisfactory Progress or Conduct.	2900-0358, 22-8873	1	1	999	55,000	18,150
ABSTRACT: This form requests information which will be used to evaluate the suitability of a program of education. The form also requests information concerning previous unsatisfactory progress in training.						
Monthly Statement of Wages Paid to Trainee.	2900-0368, 28-1917	5	4 and 6	822 and 824	3,600	1,800
ABSTRACT: Required by 38 U.S.C. 1504. This form is needed for the purpose of determining or confirming the proper VA subsistence allowance rate payable to the trainee.						
Work Study Time Record (Veterans Student Services).	2900-0379, 4-8690	1	4 and 6	822 and 824	45,000	11,250
ABSTRACT: VA Form 4-8690 is used by educational institutions and the VA for posting the number of actual hours worked by a work study student under the VA work program. The information on this form is required to process payment services rendered, similar to a time card.						
Certification of School Attendance Under Section 156 P.L. 97-377.	2900-0394, 21-8926	1	4 and 6	822 and 824	18,000	4,500
ABSTRACT: The enrollment cerfication, to be submitted by a school official, is essential to insure the validity of payments being made under the provisions of Section 156, Public Law 97-377 for full-time post secondary school children.						
Total Respondents and Burden Hours.					2,598,624	422,479

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC Code	Respondent burden	
					Number of respondents	Hours
Elementary-Secondary Staff Information (EEOC-5).	3046-0003, EEOC-168, 168B.	2	2	941	41,250	206,250
ABSTRACT: EEO-5 data are used by EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Data are shared with Department of Education's Office for Civil rights and 23 state and local FEPC agencies						
Higher Education Staff Information (EEO-6).	3046-0009, EEOC-221	2 and 4	2 and 4	822, 824, and 829	1,500	6,000
ABSTRACT: The information collected will be used by EEOC for investigations, decisions, and conciliation in its compliance, litigation, and voluntary programs activities.						
Law School Information Form	3046-0029, EEOC-434	2 and 4	2 and 4	822 and 829	217	108
ABSTRACT: To collect information regarding policies for student volunteer services.						
Paralegal Program Information Form	3046-0030, EEOC-435	2 and 4	2 and 4	822 and 829	296	148
ABSTRACT: To collect information regarding policies for student volunteer services.						
Total Respondents and Burden Hours					43,263	212,506

NATIONAL SCIENCE FOUNDATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Higher Education Panel Surveys	3145-0009, EOO-11	4	4	822	2,400	3,600
ABSTRACT: Panel surveys are designed to be responsive to a variety of policy issues. Topics are not predetermined. Recent individual surveys served policy and program management needs by providing information not available through existing sources.						
Survey of Scientific and Engineering Expenditures at Universities and Colleges, FY 1982 and FY 1983.	3145-0015, NSF-411	3	4 and 6	822	579	15,054
ABSTRACT: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Survey of Earned Doctorates in U.S	3145-0019, 588	3	1 and 4	822, 999	31,000	10,300
ABSTRACT: Information on demographic and educational background and immediate postdoctoral study or employment plans is essential for analyses of supply and demand. These data also provide information on the flow of women and minorities into these fields.						
Conservation of Antarctic animals of Plants.	3145-0034, NSF 1078	1	1	999	20	10

NATIONAL SCIENCE FOUNDATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: The National Science Foundation, pursuant to the Antarctic Conservation Act of 1978, (P.L. 94-541), regulates via a permit system certain activities in Antarctica. The subject collection of information is used by the National Science Foundation in permit Administration. The affected public is primarily scientific researchers in educational institutes.						
Nominations for Alan T. Waterman, National Media of Science, Vannevar Bush Awards.	3145-0035, 1123, 1124	6	1	999	600	1,200
ABSTRACT: To solicit nominations, the form simplifies the review process for the committee, and permits more efficient staff work in less time.						
Survey of Graduate Science Students and Postdoctorates, Fall 1982 and Fall 1983.	3145-0062	3	4	822	10,000	19,000
ABSTRACT: The survey is the source of national enrollment and student support statistics in graduate science/engineering programs.						
National Survey of Academic Research Instruments and Instrumental Needs.	3145-0067, NSF 0006	5 and 6	4	822	5,320	1,233
ABSTRACT: This study will assess the feasibility of developing measures of the current stock, utilization and requirements for scientific research instrumentation in doctorate-granting institutions and independent medical schools. The development of such indicators is requisite to assessing the status of the need for equipment in science and engineering fields.						
Survey of Scientific and Engineering Personnel Employed at Universities and Colleges, January 1983 and January 1984.	3145-0074, NSF-724	3		822	1,250	9,450
ABSTRACT: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Organization Management and Public Factors that Promote Industry Related R&D in Universities.	3145-0082	5	1	999	600	600
ABSTRACT: University research is a source of industrial productivity improvement, but the factors that encourage industry/university linkage are unknown. Data will be acquired from university department chairpersons in three representative disciplines at 100 R&D Universities. The data may be used to identify effective industry/university research strategies.						
Patents	3145-0084	4	2	822	250	1,000
ABSTRACT: NSF Awardees—Universities, other nonprofit organizations, business (small and otherwise), and occasionally governmental entities or individuals—must submit disclosure, elections, and reports on patent prosecution for NSF-supported inventions to secure rights to such inventions under 35 U.S.C. Sec. 200 et seq. NSF must report this information to Congress both directy (42 U.S.C. Sec. 1862(F) and through GAO (35 U.S.C. Sec. 202(B)(3).						
Total Respondents and Burden Hours					52,019	61,447

OFFICE OF PERSONNEL MANAGEMENT

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC Code	Respondent burden	
					Number of respondents	Hours
Initial Certification of Full-Time School Attendance.	3206-0099, BRI 49-244.1.	1	1	999	7,000	2,333
ABSTRACT: Title 5, U.S.C., Section 8341(A)(3)(C) provides survivor benefits to children between the ages of 18 and 22 if they are unmarried, full-time students. This form is provided to children who appear to be eligible for benefits when the death claim is initially received.						
Total Respondents and Burden Hours					7,000	2,333

DEPARTMENT OF DEFENSE

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Department of the Air Force						
Advance Payment Transactions and Status.	0701-0054	4	4	822	24	384
ABSTRACT: The Air Force requires that all advance payments to universities be monitored to ensure that cash management arrangements by the universities are satisfactory.						
Air Force Academy Candidate Activities Record USAFA 147.	0701-0063	1	1	999	10,000	5,000
ABSTRACT: The Air Force Academy needs this information in the admissions process to evaluate a candidate's activities.						
Air Force Academy Request of Secondary School Transcript.	0701-0066	1	1	821	10,000	3,333
ABSTRACT: The Air Force Academy needs this information in order to evaluate a candidate's high school academic performance in the admissions process.						
Total Respondents and Burden Hours					20,024	8,717
Department of the Army						
Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit.	0702-0021, DA-3126	2	2	821	400	400
ABSTRACT: The application and agreement form is used to screen secondary institutions desiring to host a junior ROTC Unit.						
Application for the U.S. Army Health Professions Scholarship Program.	0702-0028	1	1	999	2,000	2,000
ABSTRACT: Applicants must submit information requested so that selection for scholarship is on a competitive basis.						
Enlistment Incentives for College Bound High School Students.	0702-0044	6	1	999	6,300	3,150

DEPARTMENT OF DEFENSE—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden: Number of respondents	Respondent burden: Hours
ABSTRACT: To identify what ranges of education incentives and enlistment bonus offers appeal most to high school students who are eligible to joint the army.						
Application for Establishment of an Army Senior Reserve Officers' Training Corps Unit.	0702-0013	1	4	822	16	160
ABSTRACT: College Level Institutions desiring to host an army ROTC unit make application and commmit themselves to an agreement by completing and forwarding DA Form 918. Once approved, the application is kept on file as a record of agreement.						
Information on Applicant for U.S. Army Nurse Corps.	0702-0015	1	1	999	3,500	292
ABSTRACT: Information on applicants is needed to determine suitability and qualifications for appointment in the army nurse corps.						
ROTC Cadet Retention Questionnaire	0702-0054	2	1	999	1,200	600
ABSTRACT: The Army needs data on the attitudes and perceptions of college students about the reserve officer training corps in order to determine if any portions of the program should be changed to improve retention of cadets.						
Total Respondents and Burden Hours					13,416	6,602
Department of the Navy						
Personal Information Questionnaire	0703-0012, NAVMC 10064.	1	1	999	25,000	6,250
ABSTRACT: Provides the Marine Corps relevant information regarding an applicant's background, education, intelligence, experience and personal characteristics. This information is used as a method of determining the overall eligibility of applicants for all Reserve Officer Candidate Programs.						
Individual MCJROTC Instructor Evaluation Summary.	0703-0016	2	1	999	171	86
ABSTRACT: The purpose of the report is evaluate the overall performance of the senior marine instructors who are responsible for implementing the Marine Corps Junior Reserve Officers' Training Corps (MCJROTC) Program.						
Drug Statement for NROTC Application	0703-0024	1	1	999	12,000	2,400
ABSTRACT: An assessment of an applicant's history of drug use is necessary to determine the need and eligibility for a drug waiver.						
Reference Questionnaire—Reserve Officers Training Corps.	0703-0026	1	1	999	36,000	12,000
ABSTRACT: Used to collect information to make a determination of the applicant's academic and leadership potential and eligibility for an NROTC Scholarship.						
NROTC Navy-Marine Corps Scholarship Application.	0704-0028	1	1	999	40,000	13,300
ABSTRACT: Used to collect information to make a determination of an individual's basic eligibility for the NROTC Scholarship Program Appointments.						
Total Respondents and Burden Hours.					113,171	34,036
Departmental and Others						
Professional Evaluation	0704-0035, DS 5011	1	1	999	9,000	4,500
ABSTRACT: The information provides an evaluation to the applicants abilities and personal traits which promise success in an overseas teaching assignment with DOD.						
Supplemental Application for Employment with DOD Overseas Dependents Schools.	0704-0052	2	1	999	4,500	2,250
ABSTRACT: To provide, in brief, personal, professional, and academic data for use in screening applications for employment with DODDS.						
School Official's Evaluation of Candidate.	0704-0061	1	1	999	60,000	15,000
ABSTRACT: Candidates to U.S. Military and Naval Academies are required to provide an academic evaluation. The average applicant requests four school officials to complete the form.						
Total Respondents and Burden Hours					73,500	21,750

DEPARTMENT OF COMMERCE

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden: Number of respondents	Respondent burden: Hours
Bureau of the Census						
Survey of Local Government Finances (School System).	0607-0165, F-33, 33-1, 33-L1, 33-L3.	2	2	821 and 941	450	1,400
ABSTRACT: The F-33 form is used to collect financial data for public school systems.						
Total Respondents and Burden Hours					450	1,400
International Trade Administration						
Request for Duty Free Entry of Scientific Instrucments or Apparatus.	0625-0037	1	4	822	350	700
ABSTRACT: P.L. 89-651 specifies that a nonprofit institution desiring duty-free entry of certain scientific instruments or apparatus submit an application						
Total Respondents and Burden Hours					350	700
National Oceanic and Atmospheric Administration						
Sea Grant Project Summary	0648-0019, NOAA 90-2	1	2	822	60	240
ABSTRACT: Descriptive data about Sea Grant project proposals, to determine work to be performed under Grant.						
Sea Grant Budget	0648-0034, NOAA 90-4	4	4	822 and 892	450	200

DEPARTMENT OF COMMERCE—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: Information is needed to determine cost of each project of a multi-project proposal and to determine allowability of matching costs offered. Also, used in negotiating costs and administrative control of expenditures by both grantee and grantors						
Application for Designation as a Sea Grant College or Regional Consortia.	0648-0147	2	6	822	1	20
ABSTRACT: The information is used to determine the applicant's desire to be designated as a Sea Grant College or Regional Consortia by the Department of Commerce. Such application provides financial support of the instututions' commitment to maintain marine program of excellence and regional leadership.						
Total Respondents and Burden Hours					511	460

DEPARTMENT OF EDUCATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Office of Elementary and Secondary Education						
Standard Application Federal Assistance (non-construction) for Follow-Through Program.	1810-0003, ED 4473	1, 2, and 3	2 and 6	821, 822, 829, and 941	112	3,360
ABSTRACT: This application is necessary to make annual grants. The information contained in the application is used to determine annual funding levels. In addition, this information is used to prepare reports for Congress, OMB and GAO.						
Application for Indian Fellowship	1810-0020, ED 501, 501-1.	1 and 4	1	999	1,075	2,250
ABSTRACT: This application is used to enable students to enter professional fields of medicine, law education, business administration, engineering and natural resources, and related fields. The information is needed to determine eligibility for funds, select fellows and determine the amount to be awarded each applicant. Awards are made to Indian graduate and undergraduate students, and tuition payments are made to Universities.						
Application for Grants Under the Indian Education Act Program.	1810-0021, ED 736, ED 736-1.	1 and 2	2	821, 999, and 941	1,401	42,030
ABSTRACT: Application enables elementary and secondary schools to develop and implement supplementary programs specially designed to help meet the special education and culturally-related academic needs of Indian students.						
Nomination for the National Advisory Council on Indian Education.	1810-0026, ED 543,	5	2 and 4	999 and 892	80	80
ABSTRACT: The Indian Education Act establishes the National Advisory Council on Indian Education that consists of 15 members who are Indians and Alaska Natives appointed by the President of the United States. Appointments are made by the President from lists of nominees furnished by Indian tribes and organizations, and shall represent diverse geographic areas of the country.						
Application for Disaster Assistance (P.L. 81-874 Sec. 7).	1810-0027, ED 423,	1 and 2	2	941	250	500
ABSTRACT: Data is used to determine eligibility of local agencies for funds for schools destroyed by disasters.						
Chapter 1, Migrant Education Interstate and Intrastate Program.	1810-0028, ED 362-2,	1	2	941	40	1,600
ABSTRACT: This form is used to apply for grant awards and to determine grant eligibility and amount of awards.						
Application for Grants Under Civil Rights Technical Assistance & Training Programs.	1810-0030, ED 296,	1 and 2	2 and 6	941	280	5,600
ABSTRACT: This application is used by state and local education agencies and institutions of higher education to apply for Federal assistance under Title IV of the Civil Rights Act of 1964. Awards are made to help solve problems related to eliminating discrimination on the basis of race, sex and national origin in public elementary and secondary schools throughout the nation.						
Indian Student Enrollment Certification	1810-0031, ED 506,	1 and 2	1	821 and 941	25,000	6,250
ABSTRACT: Program designed to benefit eligible Indian children by calculating grant awards based on count of correct and valid forms on file with LEA.						
Application for School Assistance in Federally Affected Areas.	1810-0036, ED 4019,	1 and 2	2	821	3,003,300	333,300
ABSTRACT: Local education agencies use this form to apply for funds to provide free public education for children with a parent residing or employed (or both) on Federal property.						
State Performance Report Education Consolidation and Improvement Act, Chapter 1 (DCIA).	1810-0037, ED 686-2	2 and 4	2	941	54	21,600
ABSTRACT: To obtain necessary participation and performance data on the DCIA Chapter 1 program throughout the nation, needed to manage the program effectively and to provide the Secretary with the information needed to comply with Sections 417(A), and 418(A), and Section 422 of the General Education Provisions Act, and Section 555 Chapter 1, DCIA.						
Section 418A, HEA, High School Equivalency Program Financial Status and Performance Reports.	1810-0051, ED 819-2	2 and 4	4	822	19	95
ABSTRACT: The information is used to determine compliance with program requirements.						
Education Consolidation Block Grant application and Recordkeeping.	1810-0053, ED 1000,	1	2	914	57	114
ABSTRACT: This form is used as an annual application to the Secretary as a precondition to receiving the authorized funds.						
Application for Grant Under the High School Equivalency Program (HEP).	1810-0054, ED 819,	1, 2, and 4	2 and 4	822	50	1,000
ABSTRACT: Data will be used to select program grantees, to determines those grantees who will most effectively provide services to the target population.						
Application for Grant Under the College Assistance Migrant Program (CAMP).	1810-0055, ED 819-1	1	1, 2, and 6	999, 822, and 941	50	1,000

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: The Secretary must maintain and expand secondary and postsecondary high school equivalency programs and college assistance migrant program projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select program grantees.						
Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions.	1810-0060, ED 4376	3 and 4	2 and 6	941	52	2,000
ABSTRACT: This form is used to provide current information on the location and number of children in institutions for neglected or delinquent children or in adult correctional institutions.						
Application Package: Women's Educational Equity Act Program.	1810-0062, ED 436-1	1, 2, and 4	1, 2, and 6	821, 822, 823, 824, 841, 892, 941, and 999.	750	12,000
ABSTRACT: Public agencies including State and local educational agencies, public colleges and universities, private non-profit institutions and individuals are required to submit an annual application to receive funds under the WEEA program. The WEEA Program analyzes applications to insure that federal funds are used for programs that most effectively achieve the purposes of the Act.						
Preapplication for Federal Assistance (construction) P.L. 81-815 and Application for Federal Assistance.	1810-0502, ED355, ED 355-1.	1 and 2	2	821	38	380
ABSTRACT: Data is used to determine eligibility of school district for federal assistance to construct needed school facilities.						
Financial Status and Grant Performance Reports—Indian Education Programs, Part A, B, & C.	1810-0503, ED 354, ED 354-1.	2 and 4	2 and 4	999, 892, 941, and 822	1,200	3,600
ABSTRACT: The grantees report on the amount of funds spent, or unobligated, the number of students who participated in the project, and the extent to which the project achieved objectives are described in the application.						
Civil Rights Technical Assistance Training Programs Financial Status Report.	1810-0506, ED 296-1	2 and 4	2	821, 822, and 941	140	560
ABSTRACT: This form is used to determine grantee compliance with the requirements of the program. It is also used as the final financial report to close-out the grant.						
Law-Related Education Grant Program Application.	1810-0507, ED 740	1	2 and 4	999, 941, and 892	50	1,500
ABSTRACT: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Total Respondents and Burden Hours.					3,033,998	438,819
Office of Special Education and Rehabilitative Services						
Performance Report for Special Education Programs Discretionary Grant Programs.	1820-0002, ED 9037-1	2 and 5	2 and 4	821, 822, 892, and 941	400	6,000
ABSTRACT: Report is used by the Office of Special Education to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives.						
Report of Vending Facility Programs	1820-0009, ED RSA-15	5	2	944	54	448
ABSTRACT: The report provides information on the financial health and programmatic impact of the vending facility program in terms of earnings and loss.						
Quarterly Cumulative Caseload Expenditures Report.	1820-0013, RSA 113	3, 4, and 5	2	833	328	623
ABSTRACT: This report provides for evaluation of State agency productivity, monitoring progress of case loads in 110, SSDI, SSI programs and the severely disabled, and serves to document the number of rehabilitated clients meeting the substantial gainful employment requirement for allocation of SSA program funds.						
RSA Discretionary Grant Application	1820-0018, ED RSA-424.	1	2 and 4	821, 944, and 892	1,170	46,800
ABSTRACT: This is the general application for all Rehabilitation Service Administration (RSA) discretionary grant programs. It is used to determine grant eligibility, technical acceptability of applications submitted, and amount of grant awards.						
Application for Federal Assistance for the National Institute of Handicapped Research.	1820-0027, NIHR 792	1	2 and 4	833, 822, 892, and 944	300	12,000
ABSTRACT: Information in the application will be used to determine the technical merit of the grant proposal, determine eligibility for funding and serve as a basis for negotiation of final grant awards, including award amounts and terms and conditions.						
Grant Applications under Education for the Handicapped Programs.	1820-0028, ED 9037	1	2, 4	821, 822, 892, and 941	3,390	108,480
ABSTRACT: The application package provides instructions and information necessary for grantees and potential grantees to submit a request for federal assistance. The information submitted is used by Special Education Programs (SEP) to determine grant eligibility, acceptability of applications and amount of grant award.						
Education for the Handicapped Incentive Grant, FY 1984-86 Application for Federal Assistance.	1820-0032, ED 9055-1	1	2	941	58	348
ABSTRACT: The application is used to apply for an incentive grant to provide special education and related services to handicapped children aged 3 to 5.						
Annual Data Report—Part B of EHA and State Agency Programs for Handicapped Children Title 1, ESEA, as amended.	1820-0043, ED 869	1, 2 and 5	2	941	58	7,882
ABSTRACT: This data form is used to annually collect child count data for determining grant allotments.						
State Agency Project and Recordkeeping.	1820-0510	1, and 4	2	941	500	500
ABSTRACT: In order to receive a sub-grant under P.L. 89-313 state operated programs for handicapped children. Each public agency must submit an application for a sub-grant to the State Education Agency.						
Local Educational Agency (LEA) Application and (Recordkeeping Requirement).	1820-0511	1 and 4	2	821	15,500	775
ABSTRACT: The LEA Application is required by the Act and the Education Division General Administration Regulations. The application serves as the basis for distributing sub-grants to approximately 15,500 operating school districts which participate in EHA-B.						
Local Educational Agency Project Information Recordkeeping.	1820-0512	2, and 5	2	941	10,000	10,000

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: Each local school district which serves handicapped children whoever transferred from institutions is eligible for a sub-grant under P.L. 94-142 (EHA-B). Each LEA submits a project application to the State Education Agency to qualify for these funds.						
Total Respondents and Burden Hours					31,758	193,855
Office of Vocational and Adult Education						
State—Administered Vocational Education Progarm Improvemnet Contracts.	1830-0011, ED 590	5	2	941	912	1,140
ABSTRACT: The National Center for Research in Vocational Education acts as a clearinghouse for contracts made by the states for research, exemplary and innovative programs, and curriculum development.						
Application for Vocational Education Direct Grant Programs.	1830-0013, ED 3176	1	2	941	67	1,340
ABSTRACT: Grants are awarded to Indian Tribal Organizations to plan, conduct and administer any of the various types of vocational education programs.						
Financial Status and Performance Reports for the Adult Education State Program.	1830-0027, ED 365-1	3 and 5	2	941	55	550
ABSTRACT: For the purposes of accounting for the expenditure of funds and for assessisng the effectiveness of the carrying out of state plans under the Adult Education State Program.						
Annual Plan and Accountability Report for Vocational Education.	1830-0029, ED 576-3, 576-4.	2	2	941	57	18,240
ABSTRACT: State Boards for Vocational Education to submit annual plans and accountability reports in order to receive Federal funds for Vocational Education Programs.						
Annual Evaluation Report of the State Advisory Councils for Vocational Education.	1830-0030, ED 576-5	2	2	941	57	21,375
ABSTRACT: The State Advisory Council is to submit an annual reprot to the Secretary of Education evaluating the Vocational Education Programs conducted in its state.						
Financial Status and Performance Reports for Direct Grant—OVAE.	1830-0501 ED 360, 360-1.	5	2	941	30	240
ABSTRACT: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Total Respondents and Burden Hours					1,178	42,885
Office of Postsecondary Education						
Verification of Transfer of Credit Under the Three Institutional-Certification Method.	1840-0001, ED 1261	5	2 and 4	822 and 941	300	150
ABSTRACT: The Secretary of Education must determine whether unaccredited institutions of Higher Education are eligible for programs authorized by the Higher Education Act of 1965. The Secretary uses this form to determine whether institutions meet the "Three Institutional-Certification Method" as an alternative to accreditation.						
PELL Grant Program Student Validation Roster.	1840-0013 ED 255-4	4	4	823	5,000	82,500
ABSTRACT: The Student Validation Roster is the vehicle through which end-of-year adjustments to the authorization of PELL Grant funds are made. This is based on the number of eligible PELL recipients at the institution..						
Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program.	1840-0028, ED 1172	1	1	999	5,000	1,750
ABSTRACT: The Guaranteed Student Loan Program's chief objective is to provide a program of student loan insurance for students attending eligible postsecondary schools. This form is used to request cancellation of loan owed. The law provides that the Federal government will cancel the loan if the borrower becomes permanently and totally disabled.						
Lender's Request for Interest and Special Allowance.	1840-0034, ED 799	1	4	822, 601, 602, 603, 604, and 605	48,000	48,000
ABSTRACT: This form is used by lenders to request payment of interest and special allowance. This is the only reporting form which permits the Department to determine the government's obligation to lenders in the Guaranteed Student Loan Program.						
Federal Assistance Application Form—Law School Clinical Experience Program.	1840-0041, ED 595	1	2 and 4	822	85	2,550
ABSTRACT: This information is required of law schools applying for an institutional grant under Title IX-E of the Higher Education Act, as amended. The information will be used in the evaluation process to determine which accredited law schools should receive funds.						
Biomedical Sciences Performance and Financial Status Report.	1840-0043, ED 822	5	4	822, 821, and 824	12	48
ABSTRACT: The information from this report will be used to assess and monitor project effectiveness, to determine compliance with program regulations, and to determine if the program is meeting the needs of the target population.						
Performance Report and Financial Status Report for Cooperative Education Program Grantees.	1840-0053, ED 411, 411-1.	5	4	821	220	1,155
ABSTRACT: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
PELL Grant Program Progress Report	1840-0055, ED 255-3	4	4	824 and 822	15,000	11,250
ABSTRACT: The progress report is the vehicle through which necessary adjustments to the authorization of PELL funds are made, based on the actual demand for funds as reflected by the number of eligible PELL recipients.						
Application for Certification for Participation in Programs Under Title IV of the Higher Education Act of 1965, As Amended.	1840-0056, ED 633	1, 4 and 5	4	822	2,800	5,600
ABSTRACT: This form is used by colleges, universities and Vocational schools to apply to ED to participate in Title IV Programs.						
Request for Payment of 1983-84 Award (Alternate Disbursement System and Request for Additional Payment).	1840-0063, ED 304, ED 304-1.	1	1	999	161,560	61,350

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: Data from this form is used to obtain benefits by students attending institutions that participate under the ADS system. This instrument is used to verify student enrollment and cost of attendance which is used to determine their PELL Grant Award. The Secretary acts as the disbursing agent on behalf of these institutions.						
Aplication for Foreign Language and Area Studies.	1840–0068, ED 324–1, 324–3.	1	2	821	500	25,000
ABSTRACT: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Fiscal-Operations Report/Application to Participate in NDSL, SEOG, and CWS Programs.	1840–0073, ED 646, 646–1.	1	4	822 and 824	4,900	183,559
ABSTRACT: The Application data will be used to compute the amount of funds needed by each institution during the 1983–84 award period. The Fiscal Operation's Report data will be used to assess program effectiveness and accountability of funds expended during the 1982–83 award period.						
Student Confirmation Report for Guaranteed Student Loans Program P. L. 89–329.	1840–0077, ED 1072	4	4	822 and 824	22,500	22,500
ABSTRACT: Data from this form is used to update the student status field in the computer system. This information is then provided to the lenders on the loan transaction statement indicating if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.						
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for Undergraduate Students Outstanding—P. L. 329.	1840–0079 ED 799–1	4	4	822, 601, 602, 603, 604, and 605	12,000	6,000
ABSTRACT: This form is completed by the lender and provides the GSLP updated information of the lender loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter.						
Loan Transfer Statement Guaranteed Student Loan Program.	1840–0082, ED 1074	4	4	822, 601, 602, 603, 604, and 605	16,265	32,530
ABSTRACT: This form is used to report the selling and buying of existing loans lenders. Both lenders must sign and date the form prior to submission to ED by the buying lender.						
National Direct (Defense) Student Loan Assignment Form.	1840–0091, ED 553	4	4	822 and 824	247,500	111,375
ABSTRACT: This form was designed to provide the maximum efficiency for full reporting of debtor information for both the institution and the Federal government. The report will contain a complete statement of the facts and computations which are pertinent under laws and requirements on the bases of which the debt was administratively determined.						
Lender Manifest for Federally insured Student Loans.	1840–0093, ED 1151	4	4	822, 601, 602, 603, 604, and 605	52,000	26,000
ABSTRACT: The lender uses this form to report the amount of disbursements made on loans, conversions and loans paid in full, and insurance premiums to be paid at a later date.						
Loan Application Form Under the College Housing Program.	1840–0095, ED 866	1	4	821,822	300	9,600
ABSTRACT: This application form will be used to process and award college housing loans under the College Housing Program. Participants compete for low interest college housing construction loans.						
Request for Institutional Eligibility (For Program Under the Higher Education Act of 1965, As Amended).	1840–0096, ED 1059	2 and 4	2 and 4	822, 824, and 829	2,611	2,611
ABSTRACT: The Secretary uses this form to determine whether postsecondary educational institutions meet the statutory and regulatory requirement for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965.						
Application for State Student Incentive Grant Program.	1840–0099, ED 1288	1	2	941	57	171
ABSTRACT: Coampleted application shows states' qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determining student financial needs, and extent of institutional eligibility. With its signed assurance, the document commits the State to administer the Federal funds and State matching in compliance with the statute.						
Request for Designation as an Eligible Institution, Title III Higher Education Act of 1965, As Amended.	1840–0103, ED 1049–6	4	4	822	800	800
ABSTRACT: Information requested is used to determine if an eligible institution of Higher Education meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the Institutional Aid Programs.						
Application for Grants Under the Challenge Grant Program.	1840–0107, ED 853	1, 2 and 4	2, 4	822	25	2,325
ABSTRACT: The application will enable the program to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Guarantee Agency Request for Reimbursement for Claims Paid Request foir Reimbursement Under Agreement for Federal Reinsurance—Request for Reimbursement on Death/Disability.	1840–0108, Ed 1189, 1189–1, 1189–3.	4	4	822, 941 and 892	1,800	3,150
ABSTRACT: ED Form 1189 is used by the guaranteed agency to request reimbursement on claims paid and should always accompany the Ed 1189–1 and 1189–3. The 1189–1 is used for reimbursement on death and disability claims prior to December 15, 1968, and for all bankruptcy claims. The 1189–3 is for reimbursement of death and disability claims after December 15, 1968.						
Program Announcement—Minority Institutions Science Improvement Program.	1840–0109, Ed 0007	4	4	822 and 892	150	5,700
ABSTRACT: This is a grant application for competitive awards.						
Application for Federal Student Aid	1840–0110, ED 255	1	1	999	5,300,000	5,830,000
ABSTRACT: This form is needed to collect the data necessary to determine whether the student is eligible for Federal student aid funds, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.						
Special Condition Application for Federal Student Aid.	1840–0111, ED 255–2	1	1	999	236,000	259,000
ABSTRACT: This form is needed to collect data to determine the amount of the expected family contribution of the applicant if certain family or financial conditions have changed for the worse, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.						
Evaluation of Student Financial Assistance Training Program.	1840–0112, Ed 786–1 thru 786–8.	2	1	999	31,150	7,889

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: This study will determine whether training program participants are learning the curriculum, what participants think of the program, and whether the program is recruiting the people who need training the most.						
Application for Grants Under the Strengthening Program—Non-Competing and Continuations.	1840-0113, ED 851	1, 2, and 4	2 and 4	822	400	36,400
ABSTRACT: The application will enable the program to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded, under Title III, HEA 1965, as amended by P.L. 96-374.						
Application for Grants Under the Special Needs Program—Non-Competing and Continuations.	1840-0114, ED 852	1, 2, and 4	2 and 4	822	350	31,850
ABSTRACT: The application will enable the program to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant they may be awarded, under Title III, HEA 1965, as amended by P.L. 96-374.						
Program Announcement—Comprehensive Program Final Year Dissemination Competition.	1840-0117, ED 0004	1	4	822	50	400
ABSTRACT: This is a grant application for competitive awards with a limited eligibility requirement.						
Guarantee Agency Report of Recoveries on Claims Paid Under Federal Reinsurance.	1840-0118, Ed 1189-2	4	4	822, 941, and 892	500	1,000
ABSTRACT: The guarantee agency completes this form indicating recoveries on claims paid and forwards the report with a check to the claims and collections section, guarantees student loan branch.						
Performance Reporting: Minority Institutions Science Improvement Program (MISIP).	1840-0119, ED 0007P	4	4	821	100	300
ABSTRACT: These annual reports cover such matters as progress to date in comparison to project schedule, problems encountered and methods used in solving them, and circumstances which might significantly affect the project.						
Application for the Training Program for Special Programs Staff and Leadership Personnel.	1840-0125, ED 883	1 and 4	2 and 4	822 and 941	40	1,360
ABSTRACT: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions.						
Cooperative Education Program Application Form.	1840-0126, ED 1193	1 and 4	2 and 4	822	400	3,776
ABSTRACT: Application information is used to evaluate proposals and obligate grant funds.						
ABSTRACT: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions.						
LEEP 6, Statement of LEEP Account LEEP-6A Participants Certification Statement Law Enforcement Education Program (LEEP).	1840-0128, LEEP 6A, LEEP 6.	4	1	999	167,000	9,352
ABSTRACT: This form serves as a bill or a certification of law enforcement employment.						
National Direct Student Loan Program Report of Defaulted Loans as of December 30.	2, 4, and 5	4	822 and 824	3,200	1,600	
ABSTRACT: This report serves to provide information about the capability of the institutions to establish and administer effective collection programs according to regulatory requirements. The data collected may be used to establish default trends and compare default ratios of various institutions.						
Summary Data Sheet Listing Form (National Direct Student Loan).	1840-0130, ED 1269, 1269-1.	4	4	822 and 941	57	1,140
ABSTRACT: This form was designed to provide pertinent information to ED for compliance and statutory provisions governing the National Direct (Defense) Student Loan Program.						
Student Aid Report (SAR)—Fomerly Student Eligibility Report (SER).	1840-0132, ED 255-1	1	1	999	13,049,000	2,243,500
ABSTRACT: The student completes an application form (ED 255) on which he/she provides income and asset information necessary to determine an expected family contribution toward educational expenses.						
Request for Collections Assistance Under Federally Insured Student Loan Program.	1840-0133, ED 1249	4	4	822, 602, 603, 604, and 605	43,000	14,334
ABSTRACT: This form is used by lenders to request skip trace assistance of delinquent student loans where the lender is unable to locate the student borrower.						
Report of the Treasurer—Land-Grant and Supplementary Morrill Funds.	1840-0134, ED 1275	4 and 5	4	822	73	73
ABSTRACT: Funds distributed under the Morrill Act are to be used for support of instruction in certain curriculum areas. This report is necessary to identify the curriculum fields for which the funds are used and to determine compliance with the statute.						
Federal Loan Transaction Statement Federally Insured Student Loan Program.	1840-0500, ED 1199	4	4	822, 601, 602, 603, 604, and 605	85,000	170,000
ABSTRACT: This form is used by ED's Guaranteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.						
Fulbright Teacher Exchange Program Application Package.	1840-0501, ED 356, 356-1, 356-2, 356-3.	1	1	999	9,900	3,950
ABSTRACT: Form is used by applicants under the Fulbright teacher exchange program which provides opportunities for U.S. teachers to exchange positions for an academic year with foreign counterparts or to attend one of a number of short-term seminars abroad on a variety of topics.						
Performance and Financial Report for the Supplemental Funds Program for Cooperative Education.	1840-0503, ED 886-1, 886-2.	5	4	822	446	446

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Application for the Supplemental Funds Program for Cooperative Education.	1840-0504, ED 886, 886A.	1	4	822	376	564
ABSTRACT: Application information is used to reallot unused college work-study funds to colleges and universities to initiate, improve or expand Cooperative Education Programs.						
Training Programs for Social Programs Personnel Performance and Financial Status Report.	1840-0507, ED 883-1, 883-2.	2 and 4	2 and 4	822 and 824	10	30
ABSTRACT: The information will be used to access individual project accomplishments of program goals.						
Application for Grants Under the Graduate and Professional Study Fellowships Program.	1840-0508, ED 591	1 and 4	2 and 4	822	250	5,000
ABSTRACT: The application form is utilized to obtain information from institutions of higher education required by authorizing legislation and program regulations in order to conduct a competitive evaluation process and to award grant funds.						
Application for Grants Under the Education for Public Services Program.	1840-0509, ED 404	1	2 and 4	822	120	2,400
ABSTRACT: This information is required of institutions of higher education applying for an allocation of fellowships under Title IX, B of Higher Education Act, as amended. The information will be used in the evaluation process to determine which institutions will be funded.						
Program Announcement Comprehensive Program New Awards and Continuations.	1840-0514, ED 001, 002	1 and 4	2 and 4	822 and 941	2,740	33,100
ABSTRACT: This is a grant application for competitive awards with a two-stage application process: Preliminary and Final. Continuation awards are granted only to those who are currently receiving grants and whose progress has been satisfactory.						
Mini Shaughnessy Scholar Program	1840-0515, ED 0006	1 and 4	1 and 4	822 and 941	550	17,500
ABSTRACT: This is an annual grant competition designed to solicit applications from postsecondary education institutions which propose to designate a Shaughnessy Scholar to improve education practice through individual project.						
Lender's Application for payment of Insurance Claim—FISL.	1840-0517, ED 1207	1	4	822	51,120	15,336
ABSTRACT: The form is used by lenders to request payment of claims on defaulted Guaranteed Student Loans. It provides ED loan and payment history which essential in determining the validity of a claim and the amount to be paid to the lender.						
Talent Search Performance and Financial Status Reports.	1840-0523, ED 896, 896-1.	4 and 5	4	822	167	668
ABSTRACT: The collected data is needed to comply with EDGAR Regulations 34 CFR, Parts 74 and 75. The information will be used to access individual project accomplishments of program goals and past performance requirements of regulations.						
Special Services Performance and Financial Status Reports.	1840-0525, ED 1231, 1231-1.	4 and 5	4	822	640	2,560
ABSTRACT: The collected data is needed to comply with EDGAR Regulations 34 CFR, Parts 74 and 75. The information will be used to assess individual projects accomplishments of goals as required by Public Law 94-374 and past performance goals as is required by Public Law 96-374 and past performance requirements of the regulations.						
Education Opportunity Centers Performance and Financial Status Reports.	1840-0526, ED 366, 366-1.	4 and 5	4	822	33	132
ABSTRACT: The data is needed to comply with EDGAR Regulations 34 CFR, Parts 74 and 75. The information will be used to access individual project accomplishments of program goals and past performance requirements of the regulations.						
Certification of Project Costs for College Facilities.	1840-0528, ED 1143	4	4	822	50	50
ABSTRACT: The certification of project costs is required of college housing loan recipients in order to account for all the costs incurred under the subsidized project. The purpose of the data collection is to determine eligible costs under the program.						
Foreign Language and Area Studies Fellowship Information Reports.	1840-0529, ED 7608, 7632, 7614.	2 and 5	4	822	1,700	2,611
ABSTRACT: This data will enable ED to analyze and determine the need for specific fields of instruction and to identify the professional areas of study.						
Lender's Request for Interest and Special Allowance For Loans made from Tax Exempt Funds.	ED 1840-0530, ED 799A.	1	4	822	168	126
ABSTRACT: The ED Form 799-A is used by lenders to request payment of interest and special allowance on Guaranteed Student Loans made from tax exempt funds.						
Total Respondents and Burden Hours					19,603,975	9,342,121

Office of Educational Research and Improvement

Salaries, Tenure and Fringe Benefits of Full-time Instructional Faculty in Institutions of Higher Education 1983-84.	1850-0003, ED (NCES) 2300-3.	3 and 4	2, 4, and 6	822	3,300	13,200
ABSTRACT: Faculty data are used by institutions to establish salary scales, state agencies to determine budgets for state supported institutions, professional and educational associations and federal agencies to evaluate the extent to which salaries differ between men and women and to develop financial indicators of higher education.						
Application for Library Training Programs, Title II B, HEA 1965.	1850-0022, ED 547	1 and 4	2 and 4	823 and 822	70	840
ABSTRACT: The application form is used to apply for grants under this program and to determine grant eligibility and amount of awards.						
Fall Enrollment and Compliance Report of Institutions of Higher Education, 1983.	1850-0035, ED (NCES) 2300 2.3A, & 2.3B.	3 and 4	4	822	3,300	8,200
ABSTRACT: College enrollment data are needed by the Department of Education, State, educational researchers, planning and budget offices and individual colleges for use in economic and financial planning and policy formation, forming funding allocation standards, and assessing the manpower flow through college training and development. It is used in compliance enforcement by the Office for Civil Rights.						
State-level Personnel Exchange (Elementary-Secondary).	1850-0038, 2428-1, 2428-2.	1	2	941	32	48

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: Assist state and local educational agencies in improving and automating their statistical and data collection activities as part of its assistance program, NCES interchange of information and expertise among states.						
Application for Grants Under College Library Resources Program.	1850-0045, ED 3118	1 and 4	2 and 4	822 and 823	2,500	7,500
ABSTRACT: This form enables institutions of higher education and private and public nonprofit library institutions to apply annually for resource development grants. It provides the Secretary with sufficient information to determine either adherence to fiscal requirements, or to approve a waiver of such requirements. Also, applicants must explain anticipated activities if funds are applied to networking activities.						
Degrees and other Formal Awards Conferred Between July 1, 1982 and June 1983.	1850-0053, ED 2300-2.1A, 2300-2.1A, 2300-2.1B, 2300-2.1B-1.	3	4	822	3,300	9,900
ABSTRACT: Degree and other formal awards data are needed by the Department of Education, State, planning and budget offices and individual colleges for use in economic and financial planning and policy formation. The data is used by the Department of Labor in formulating their "Occupational Outlook Handbook" and by the National Occupational Information Coordinating Committee in assessing manpower.						
Application for Grant under the Strengthening Research Library Resources Program.	1850-0054, ED 592	1	4	822 and 833	100	1,600
ABSTRACT: This form is needed to enable major research libraries to apply annually on a competitive basis and provide the Secretary with sufficient information to determine adherence to program selection criteria.						
Common Core of Data (CCD)	1850-0067, ED (NCES) 2442, 2443, 2443-1, 2444, 2445, 2446, 2447.	3 and 4	2	941	57	17,425
ABSTRACT: These data provide information about student membership, graduates, teacher and related staff and finances by source and function. These data are used for sampling, allocation of federal funds for some education grant programs (ESEA Title 1) and in carrying out NCES mandated studies (equity profiles).						
Final Financial Status and Performance Report—Title II-A, II-B (Training) and II-C.	1850-0072, ED 606, Ed 606-1, 606-2.	2 and 5	2 and 7	822 and 823	2,400	8,400
ABSTRACT: This consolidated report form is used to determine the utilization of grant funds administered by three discretionary grant programs—(HEA II-A) college library resources, (HEA II-B) library career training, and (HEA II-C) strengthening research library resources. Supplementary maintenance of effort analysis sheet for II-A is necessary to confirm compliance with the fiscal requirement.						
1981-1982 Library Human Resources: Study of Supply and Demand (Full-Scale).	1850-0082	3 and 5	2 and 4	822 and 823	2,578	2,578
ABSTRACT: The purpose of this study is to provide projections of the supply and demand for Librarians through 1990. The proposed study will provide needed data for describing the current situation, and will provide summary data for an econometric model so that the projections can be made.						
Application for Grants Under the National Diffusion Network.	1850-0086, ED 734	1 and 4	2 and 4	941, 822 and 892	171	3,432
ABSTRACT: The Application form is required to award grants under this program. Information will be used to make funding decisions.						
National Assessment of Educational Progress 83-84 Reading and Writing Assessment.	1850-0089	3 and 6	2	821	4,275,000	74,018
ABSTRACT: Congress has mandated the collection of National Assessment Survey Data. The data collection will occur during the 1983-84 school year related to reading and writing. Achievement data, as well as achievement related information, will be useful to the public researchers, legislators and educators.						
State-level Personnel Exchange (Post-secondary).	1850-0095, ED (NCES) 2436-1 2, 3.	4	2	941	60	30
ABSTRACT: The Department of Education is required by law to assist state and local education agencies in improving and automating their statistical and data collection activities. As part of the its assistance program, NCES has established a state-level personnel exchange to facilitate the interchange of information and expertise among states.						
Financial Statistics of Institutions of Higher Education for Fiscal year ending 1982.	1850-0502, ED (NCES) 2300-4.	3	4	822	3,000	8,250
ABSTRACT: College financial statistics are needed by the Department of Education to report on the condition of education to determine eligibility for participation in the Title III, HEA program. These are used by the Bureau of the Census to report the finances of state and local governments.						
Survey of Private Elementary and Secondary Schools, 1983-84.	1850-0515, ED 2455, 2455A.	3, 5, and 6	4, 6, and 7	941 and 892	1,407	1,275
ABSTRACT: Survey designed to provide information needed by departmental policy makers in relation to such current issues as tax credits, voucher systems, and public funds to private school pupils.						
Survey of Teacher Demand and Shortage.	1850-0518, ED (NCES) 2406-1.	3 and 4	2	821	3,200	2,240
ABSTRACT: This survey responds to the mandate in the General Education Provision Act for NCES to determine the demand for, and the availability of, qualified teachers. The information gathered is needed by Congress, the Executive Branch, and others who affect education policy at all levels of government. Specific areas of inquiry are the number of filled and unfilled teacher position openings and methods by which shortages may be alleviated.						
A Tracer Survey of the Impacts of General Purpose Dissemination Program.	1850-0520, NIE-218	6	2 and 4	821, 822, 823, and 941	250	125
ABSTRACT: The purpose of this study is to gain understanding of the impacts of different kinds of dissemination activities sponsored by three Department (NIE) programs that are based on a General Purpose Dissemination Assistance Model. It will be used to strengthen conceptualization, design and management of dissemination programs at regional, State or Federal levels.						
Institutional characteristics of colleges and Universities, 1983-1984.	1850-0526, ED (NCES) 2300-1, 1A.	3 and 4	4	822	3,450	869
ABSTRACT: The survey collects and/or confirms characteristics of institutions of higher education in order to maintain the HEGIS Survey Control File. It includes name of the institution address, FICE Code Number, entity number, telephone number, enrollment (for new institutions only), and tuition and fees information. Accreditation information also verified.						
Library Services and Construction Act (Pub.L. 84-597, As Amended) Financial Status and Performance Reports—Title I (Library Services) and Title III (Interlibrary Coop.).	1850-0527, ED 921-1, 921-2.	2, 4 and 5	2	823 and 941	108	1,620

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden: Number of respondents	Respondent burden: Hours
ABSTRACT: The data is used to determine maintenance of effort for services to handicapped, institutionalized, and library services from all sources. Expenditures of State administrative costs are checked for matching requirements. It is also used determine if grant funds were expended under compliance timeliness, and to review program and fiscal requirements under Title III.						
Library Services and Construction Act, Application and Project Plan Titles I and III.	1850-0528, ED 921	1 and 4	2	823 and 941	54	1,620
ABSTRACT: The application encompasses the Basic State Plan (State-Federal Agreement), the Long Range Program Revisions and submission of projects for Title I and III.						
High School and Beyond Second Follow-Up Survey.	1850-0529, ED (NCES) 2441-1, 244-2.	3 and 6	1, 2, and 4	821, 822, and 999	27,199	27,199
ABSTRACT: In response to the need for policy relevant time series data on a nationally representative sample of high school students, The Department instituted the National Longitudinal Studies (NLS) Program. One major component of the NLS Program is the High School and Beyond (HS&B Study. HS&B is a nationally representative sample of 1980 high school sophomores and seniors. HS&B data is used to study longitudinally the educational, vocational, and personal development.						
Survey of Federal Discretionary Program Priorities For the Office of Vocational and Adult Education (OVAE).	1850-0530, ED 2379-18	3 and 6	2	941	57	29
ABSTRACT: The survey seeks State input on identification of research and development initiatives in fiscal year 1985 that will best complement State plans and activities in Adult and Vocational Education for that year.						
Residence and Migration of College Students, Fall 1984.	1850-0535, ED (NCES) 2300-2.8.	3 and 5	2, 4 and 6	822	3,325	4,988
ABSTRACT: Residence and migraton data are needed by the Department of Education, States, educational researchers, planning and budget officers and individual colleges for use in economic and financial planning and policy formulation, particuarly with regard to tracking the migration of students from State to State which has a direct impact on college costs, student financial needs, and sources of such funds.						
Total Respondents and Burden Hours					4,335,218	195,386
Office of Planning and Budget and Evaluation						
State Uses of Federal Funds	1875-0004, ED 511	4 and 3	2	941	51	2,550
ABSTRACT: The data provide information collected from States concerning the amount of funds distributed in the past year to each school district or other grantee. This information is reported to Congress on March 31.						
Application Form for Secretary's Initiative to improve Chapter 1, ECIA Projects.	1875-005, ED 915	1	2	941	40	1,600
ABSTRACT: The Secretary's initiative to improve Chapter 1, ECIA Projects is a program of competitive grants, limited to State Education Agencies, working in cooperation with local school districts, other States, or other organizations. States will develop and implement strategies to improve the effectiveness and efficiency of their Chapter 1 programs by identifying, validating, disseminating information and/or implementing exemplary projects and practices.						
National Longitudinal Evaluation of the Effectiveness of Services To Language Minority Limited English Proficient Students.	1875-006, ED 923	2 and 3	1 and 2	999, 821, and 941	5,451	2,726
ABSTRACT: This study is used to evaluate the effectiveness of different instructional approaches for limited English proficient children, including a descriptive survey of existing practice. Data will be collected from teachers and administrators at 221 LEAs and 450 schools to assist SEAs form policy and design impact evaluations.						
Total Respondents and Burden Hours					5,542	6,876
Department Management						
Computer Generated Recipient Report of Expenditures.	1880-0172, ED 668-1	5	2 and 4	821	28,000	112,000
ABSTRACT: This form is used by recipients to report on expenditures made and Federal funds unexpended for each award and to report the status for each award and the status of Federal cash advanced.						
Application for the Secretary's Discretionary Program.	1880-0505, ED 914	1	2 and 4	999, 941, 821, and 829	400	7,600
ABSTRACT: This information is used to award grants for the Secretary's Discretionary Program under Section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851). The purposes of the awards are to address unmet national needs, expand parental choice in education, improve teacher quality through incentive, strengthening local school boards. Unsolicited proposals are accepted.						
Total Respondents and Burden Hours					28,400	119,600
Office of Bilingual Education and Minority Languages Affairs						
Application for Grants Under Bilingual Vocational Education Programs.	1885-0002, ED 791	1	2 and 4	941, 822, 824, and 999	75	3,000
ABSTRACT: Title I, Subpart 3 of the Vocational Education Act of 1963, as amended, authorizes the award of grants to meet the purposes and requirements of the Act, and the application requirements and award criteria established in regulations. The proposed data collection informs applicants of the information required under law and regulations.						
Application for Grants Under Bilingual Vocational Education.	1885-0003, ED 4561	1	2 and 4	821, 941, and 999	750	60,000
ABSTRACT: Applicants for assistance will use this form to apply for new awards under Title VII of the Elementary and Secondary Education Act, as amended. The Secretary will use information in the application to determine the technical merit of the grant proposals and the eligibility of the applicant for assistance and also serves as the basis for negotiation of grant awards.						
Application for Continuation Grants Under Bilingual Education.	1885-0004, ED 4561-1	1	2 and 4	821 and 941	600	9,600
ABSTRACT: This form is used by applicants applying for continuation awards under Title VII of the Elementary and Secondary Education Act, as amended.						
Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Program Contract.	1885-0005, ED 4561-3	4	1	999	500	1,000
ABSTRACT: Recipients of fellowship assistance under the Bilingual Education Fellowship Program will use this form to demonstrate their compliance with the provisions of the Fellowship Program Contract.						
Application for Grants Under Transition Program for Refugee Children.	1885-0503, ED 443-2	1	2	941	54	8,424

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: The Refugee Act of 1980, as amended, authorizes the award of grants and applicants that meet the purposes and requirements of the Act and the application requirements established in regulations. The data collection informs applicants of the information required under law and regulations.						
Financial Status and Performance Reports for Bilingual Vocational Training and Instructor Training Programs.	1885-0504, ED 791-1;-2.	5	2, 6, and 7	824	9	108
ABSTRACT: Grantees are required under EDGAR (75.720) to submit annual financial status and performance reports. The reports are used to monitor grantee expenditures and compliance plus to determine whether and to what extend progress has been made toward achieving goals and objectives.						
Total Respondents and Burden Hours					1,988	82,132

OFFICE OF INSPECTOR GENERAL

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Property System Survey	1892-002, ED 21	4	2 and 4	892	1,000	250
ABSTRACT: To ensure that contractors with Federal property have adequate inventory systems. This questionnaire is used to assess the existence of contractors inventory systems procedures. Contractors are required to report to ED annually all government-owned property in their possession.						
Total Respondents and Burden Hours					1,000	250

NATIONAL ENDOWMENT FOR THE HUMANITIES

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
NEH Application Cover Sheet	3136-0032	1	1 and 6	822	20,000	10,000
ABSTRACT: Standardized Application Cover Sheet providing data necessary to grant application review and grant administration process. This form enables the Endowment to use automated systems to process the data, ensure timely response and compliance with requesting requirements.						
Total Respondents and Burden Hours					20,000	10,000

SMALL BUSINESS ADMINISTRATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
SBA Grants Management Program	3245-0140	1	1, 2, and 4	822	100	10,655
ABSTRACT: Determine mix of Federal and NM-Federal dollars, peccentage of non-Federal dollars, personnel paid by Federal dollars during project year and overall budgetary data.						
Total Respondents and Burden Hours					100	10,655

UNITED STATES INFORMATION AGENCY

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Exchange Visitor Program Application	3116-0009	1	2, 4, 5, and 6	822	100	50
ABSTRACT: USIA has been delegated the authority to designate Exchange Visitor programs for U.S. Government agencies and private institutions for the purpose of promoting international understanding through educational exchange. It gives the government agency or institution authority to use IAP-66 to bring students, scholars, and trainees to the U.S.						
Update of Information on Exchange Visitor Program Sponsor.	3116-0011	1	1	999	6,000	1,500
ABSTRACT: The Exchange Visitor Program Branch of the Agency has approximately 1,750 programs that have been granted Exchange Visitor Program designation over the past 30 years. A designated Exchange Visitor Program allows the sponsor to utilize the "J" visa to bring foreign nationals to the U.S. as students, teachers, trainees, etc.						
Exchange Visitor Programs	3116-0170	2 and 4	6	822	35	35
ABSTRACT: The program designates Exchange Visitor Programs under the sponsorship of a reputable international agency or organization and designed to promote the interchange of persons, knowledge and skills, and the interchange of development in the field of education, the arts and sciences, and is concerned with one or more foreign national participants, in order to promote mutual understanding between the people of the U.S. and people of other countries.						
Bureau of Educational and Cultural Affairs Grant Application Cover Sheet.	3116-0173	1	2, 4, 5, and 6	822	530	399
ABSTRACT: The cover sheet provides information necessary for grant review by panel and associate director.						
Total Respondent and Burden Hours					6,665	1,984

DEPARTMENT OF ENERGY

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Departmental and Others						
Health Physics/Radiation Protection and Nuclear Engineering Enrollment and Degrees Survey.	1901-0015	2	3	822	150	75
ABSTRACT: Forms ER-616 and ER-617 track the number of persons enrolled in and the number of degrees awarded in health physics/radiation protection and nuclear engineering. The information collected is used in reports by the Office of Energy Research on current and future personnel needs in the nuclear industry.						
Total Respondent and Burden Hours					150	75
Federal Energy Regulatory Commission						
Application for Approval of Disposition of Facilities, Merger, Etc.	1902-0082	4	4	491	15	1,275
ABSTRACT: The information defined in these filing requirements is used to determine whether an applicant should be permitted to dispose of jurisdictional facilities, merge such facilities owned by another person, or acquire the securities of another utility pursuant to the Federal Power Act, Section 203.						
Total Respondent and Burden Hours					15	12,275

DEPARTMENT OF TRANSPORTATION

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Federal Aviation Administration						
Learning Through Aviation—Writing Contest.	2120	5	1	999	20,000	80,000
ABSTRACT: This collection of information is a public relations effort on the part of F.A.A. to provide awareness and understanding among students of the impact that 200 years of human flight has produced.						
Total Respondent and Burden Hours					20,000	80,000
Maritime Administration						
U.S. Merchant Marine Academy application For Admission and Pre-Candidate Questionnaire.	2133-0010	1	1	999	2,000	10,000
ABSTRACT: The application form is used to apply for admissions to the U.S. Merchant Marine Academy. The pre-candidate questionnaire is used to establish initial eligibility and to place the candidate into the Department of Defense medical system.						
Regulations for Making Excess or Surplus Federal Property Available to the USMA, the State Maritime Academies and Approved Nonprofit Maritime Training Institutions.	2133-0504	1	2	829	1	1
ABSTRACT: The Maritime Administration requires approved Maritime training institutions that are interested in acquiring excess or surplus Federal property under the provisions of 46 U.S.C. 1295G to submit a statement of need in the form of an application.						
Total Respondent and Burden Hours					2,001	10,001
U.S. Coast Guard						
Course Approvals, Merchant Marine Training.	2115-0111	4	4	829	10	40
ABSTRACT: This requirement ensures that certain training schools apply to the Coast Guard for approval of the curricular and faculty. This requirement is to ensure a minimum level of training in lieu of an examination or sea experience..						
Total Respondent and Burden Hours					10	40
Urban Mass Transportation Administration						
Managerial Training Grant Program	2132-0511	1	2	999	300	75
ABSTRACT: Under Section 10 of the UMT Act, UMTA provides grants to State and local public bodies and agencies thereof, who in turn select managerial, technical, and professional employees to receive training. In offering this assistance, UMTA has chosen to comply with OMB SF 424 for obtaining the necessary information to award the grant.						
Total Respondent and Burden Hours					300	75

ADMINISTRATION OF FOREIGN AFFAIRS

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
Approval of Funding to Support Special Educational Progress.	1405-0031, JF-45	2	4	821	182	61
ABSTRACT: This form requires information regarding activities to be carried out in the total special project as well as information that is used to make funding decisions.						
Overseas Schools Progress and Evaluation Report.	1405-0032, JF-44	2	4	821	238	23

ADMINISTRATION OF FOREIGN AFFAIRS—Continued

Title of information collection	OMB and agency Nos.	Purpose	Type	SIC code	Respondent burden	
					Number of respondents	Hours
ABSTRACT: The report provides the Department with a statement of the school's as well as the post's evaluation of the effectiveness of the grant, and serves as the basis for the Department to evaluate specific grant activities.						
Office of Overseas Schools Financial Report.	1405-0033, JF-43	2	4	821	952	238
ABSTRACT: The data provided by the Overseas Schools in the report is used by the Embassy and the Department to monitor obligations, expenditures, and reimbursement of grant funds.						
Overseas Schools Questionnaire	1405-0036,FS-573A and B.	1	4	821	165	320
ABSTRACT: The questionnaire obtains information about the school, its enrollment, staff programs and budget, which are necessary for appraisal of each school seeking assistance to determine the extent of assistance required and whether or not criteria governing assistance are met.						
Overseas Schools Request For Assistance.	1405-0037-FS-574	1	4	821	165	83
ABSTRACT: The request for assistance serves as the basis for action by the Department as regards the grant request.						
Total Respondent and Burden Hours					1,702	725

[FR Doc. 84-6443 Filed 3-12-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA84-2-31-000]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

March 7, 1984.

Take notice that on March 1, 1984 Arkansas Louisiana Gas Company (Arkla) tendered for filing 36th Revised Sheet No. 4 and 9th Revised Sheet No. 4A to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G-2, to become effective April 1, 1984.

Arkla states that the purpose of 36th Revised Sheet No. 4 is to (1) reflect the cost of purchased gas for the six months period commencing April 1, 1984, (2) recover the accumulated deferred gas costs as of December 31, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 9th Revised Sheet No. 4A effective April 1, 1984.

Arkla also states that a copy of the revised tariff sheets and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-6616 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-31-001]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

March 7, 1984.

Take notice that on March 1, 1984 Arkansas Louisiana Gas Company (Arkla) tendered for filing 35th Revised Sheet No. 185 and No. 9th Revised Sheet No. 185 to its FERC Gas Tariff First Revised Volume No. 3, Rate Schedule No. X-26, to become effective April 1, 1984.

Arkla states that the purpose of 35th Revised Sheet No. 185 is to (1) reflect the cost of purchased gas for the six months period commencing December 31, 1984, (2) recover the accumulated deferred gas costs as of December 31, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 9th Revised Sheet No. 185A effective April 1, 1984.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6617 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustments

March 7, 1984.

Take notice that on March 1, 1984, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's

FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

The filing reflects an increase in the base purchased gas cost of $.0250 per dth and a decrease of $.0251 per dth in the surcharge rate and an increase of $.0001 per dth attributable to the elimination of the credit surcharge rate applicable to Louisiana First Use Tax refunds for a net adjustment in El Paso's currently effective rate of zero (0) dollars per dth attributable to the PGA.

El Paso states that in establishing the purchased gas rates for affiliated companies, El Paso has assumed the effectuation of its Offer of Settlement, regarding the affiliated entities issue, which was filed on January 16, 1984 and certified by the Judge to the Commission on February 24, 1984 at Docket Nos. TA83-1-33-000 and TA82-2-33-000 (Affiliated Entities). The resultant rates have been included in the derivation of the annualized adjustment for purchased gas costs.

To implement the instant notice of change in rates, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	Second Revised Sheet No. 100; First Revised Sheet No. 540.
Third Revised Volume No. 2	Twenty-seventh Revised Sheet No. 1-D.
Original Volume No. 2A	Twenty-eighth Revised Sheet No. 1-C.

El Paso requests that the Commission grant waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered revised tariff sheets to become effective on April 1, 1984.

El Paso states that the filing has been served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6618 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-5-000]

Midwestern Gas Transmission Co.; Notice of Rate Filing

March 7, 1984.

Take notice that on March 1, 1984, Midwestern Gas Transmission Company (Midwestern) tendered for filing Ninth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1984.

Midwestern states that the sole purpose of the filing is to reduce Midwestern's Southern System rates effective Apreil 1, 1984, to commence the immediate flow-through of the substantial refund which Midwestern will receive from its Southern System supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., in Docket Nos. PR82-125, *et al.* Midwestern requests waiver to make this filing effective as proposed and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6619 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA 84-2-40-000]

Raton Natural Gas Co.; Change in Rates

March 7, 1984.

Take notice that Raton Natural Gas Company (Raton), on March 2, 1984, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Thirty-second Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is April 1, 1984.

Raton states that the instant notice of change in rates is occasioned solely for increase in the cost of gas purchased from Colorado Interstate Gas Company (CIG) by reason of increase in GRI charge. The tracking of CIG Gas Cost increase results in Commodity Rate from 372.40¢ to 372.93¢ per MCF. The annual revenue increase, by reason of the tracking, amounts to $4,629.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Mar. 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6621 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10987-004, *et al.*]

Shell Offshore Inc. et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates[1]

March 8, 1984

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-10987-004, D, Feb. 27, 1984	Shell Offshore Inc., P.O. Box 4480, Houston, Texas 77210.	Tennessee Gas Pipeline Company, South Pass Block 42 Field, Offshore Louisiana.	(1)	
G-11938-000, D, Feb. 27, 1984	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, D.A. Breard Farm Lease No. 1120, Lot 1, in the N/2 of NE/4, Section 15, T18N, R4E, Monroe Field, Ouachita Parish, Louisiana.	(2)	
CI67-717-000, D, Feb. 24, 1984	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Hugoton Field, Texas County, Oklahoma.	(3)	
CI78-181-006, D, Feb. 28, 1984	Texaco Inc. (operator, et al.), P.O. Box 2100, Denver, Colorado 80201.	Colorado Interstate Gas Company, East Desert Springs Field, Sweetwater County, Wyoming.	(4)	
CI78-182-006, D, Feb. 28, 1984	Texaco Inc. (operator, et al.), P.O. Box 2100, Denver, Colorado 80201.	Colorado Interstate Gas Company, East Desert Springs Field, Sweetwater County, Wyoming.	(4)	
CI83-371-001, C, Feb. 24, 1984	TINCO, Ltd., P.O. Box 2511, Houston, Texas 77001	Creole Gas Pipeline Corporation Vermilion 122 & East Cameron 128, Offshore Louisiana; Eugene Island 215, Offshore Louisiana; South Marsh Island Block 160, Offshore Louisiana; South Marsh Island Block 236, Offshore Louisiana; South Marsh Island Block 116, Offshore Louisiana; Ship Shoal Block 170, Offshore Louisiana; Ship Shoal Block 181, Offshore Louisiana; Brazos Block A-22, Offshore Texas; High Island Block A-270, Offshore Texas; High Island Block A-416, Offshore Texas; South Timbalier Block 22, Offshore Louisiana; South Timbalier Block 27, Offshore Louisiana; West Cameron Block 638, Offshore Louisiana.	(5)	14.73
CI83-372-001, C, Feb. 21, 1984	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Creole Gas Pipeline Corporation, Vermilion 122 & East Cameron 128, Offshore Louisiana; Eugene Island 215, Offshore Louisiana; South Marsh Island Block 160, Offshore Louisiana; South Marsh Island Block 236, Offshore Louisiana; South Marsh Island Block 116, Offshore Louisiana; Ship Shoal Block 170, Offshore Louisiana; Ship Shoal Block 181, Offshore Louisiana; Brazos Block A-22, Offshore Texas; High Island Block A-270, Offshore Texas; High Island Block A-416, Offshore Texas; South Timbalier Block 22, Offshore Louisiana; South Timbalier Block 27, Offshore Louisiana; West Cameron Block 638, Offshore Louisiana.	(5)	14.73
CI64-40-000, Feb. 10, 1984	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Arkansas Louisiana Gas Company, S. E. Custer Field, Custer County, Oklahoma.	(6)	14.65
CI84-217-000, D, Feb. 21, 1984	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Panhandle Eastern Pipe Line Company, Alva East Field, Woods County, Oklahoma.	(7)	
CI84-218-000 (CI73-98), B, Feb. 21, 1984.	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	Transcontinental Gas Pipeline Company, Brazos A-1, Offshore, Texas.	(8)	
CI84-219-000 (CI81-319-000), B, Feb. 21, 1984.	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	El Paso Natural Gas Company, J. C. Calverly, Huegler, Spraberry Trend Field, Glasscock County Texas.	(9)	
CI84-220-000, A, Feb. 21, 1984	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	El Paso Natural Gas Company, Blanco Field, San Juan County, New Mexico.	(10)	15.025
CI84-221-000, E, Feb. 23, 1984	The Rosewood Corporation (successor in Interest to Caroline Hunt Schoellkopf and Loyd B. Sands), 2800 Thanksgiving Tower, Dallas, Texas 75201.	Texas Gas Transmission Corporation, Various Fields, Cameron Parish, Louisiana.	(11)	15.025
CI84-222-000, A, Feb. 24, 1984	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Marsh Island Block 116, Offshore Louisiana.	(12)	15.025
CI84-223-000, E, Feb. 23, 1984	Rosewood Resources (POC), Inc. (successor in interest to Sun Exploration and Production Company), 2600 Thanksgiving Tower, Dallas, Texas 75201.	Texas Gas Transmission Corporation, N. Welsh Field, Jefferson-Davis Parish, Louisiana.	(13)	14.73
CI84-224-000 (CI64-54), B, Feb. 24, 1984.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, Lundell Field, Duval County, Texas.	(14)	
CI84-225-000, A, Feb. 27, 1984	Amoco Production Company (USA), Post Office Box 50879, New Orleans, Louisiana 70150.	ANR Pipeline Company, High Island Block A-494 Field, Offshore Texas.	(15)	14.65
CI84-226-000, F, Feb. 24, 1984	Phillips Oil Company (partial successor in interest to Phillips Petroleum Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Northern Natural Gas Company, Emperor Pool Field, Winkler County, Texas.	(16)	14.65

[1] Lease No. OCS-G-4679 was released as of June 5, 1981.

[2] By letter dated July 14, 1983, MOEPSI notified United that by Lease Option Agreement dated November 15, 1980, MOEPSI and D. Raban Smith, Jr., Jerry S. Hibbard, and Leon E. Frost entered into an Oil & Gas Lease, dated November 15, 1980, effective September 15, 1980, deleting the acreage.

[3] Release of gas for irrigation fuel.

[4] Lease terminated November 1983.

[5] Applicant is filing under Gas Sales Contract dated August 12, 1983, amended by Supplemental Gas Purchase Agreement dated January 1, 1984 to add acreage.

[6] Applicant is filing under Rollover Contract dated August 18, 1983.

[7] Partial Assignment and Bill of Sale executed on December 28, 1983, effective December 1, 1983, wherein Sun Exploration and Production Company assigned its interest in the Rauh Unit, Lease Nos. 14841 and 14842, being the SW/4 and the NW/4 of Section 1, Township 26 North, Range 13 West, 320 acres, more or less, to Kaiser-Francis Oil Company.

[8] The Brazos A-1 was the only lease under this certificate and it expired by its own terms on October 30, 1983 and surrender was executed.

[9] On January 1, 1983, certain properties were assigned from Getty Oil Company to Getty Reserve Oil Inc. On August 16, 1983, Collet Oil Ventures, Inc. purchased all of the capitol stock of Getty Reserve, Inc.

[10] Applicant is filing under Gas Purchase Contract dated October 5, 1962.

[11] The Rosewood Corporation is seeking authority to render natural gas service previously authorized by the Commission, as successor in interest to the interest in the referenced field, covered by Caroline Hunt Schoellkopf and Loyd B. Sands.

[12] Applicant is filing under Gas Purchase and Sales Agreement dated February 13, 1984.

[13] Rosewood Resources (POC), Inc. is seeking authority to render natural gas service previously authorized by the Commission, as successor in interest in the referenced field, covered by Sun Exploration and Production Company.

[14] Contract reached the end of its term on January 1, 1984. There is no production from the leases which were covered by this contract and no plans for future operations on this acreage.

[15] Applicant is filing under Gas Purchase Contract dated January 30, 1984.

[18] Effective November 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the McCabe and Shell-McCabe leases in Winkler County, Texas. Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 84-6622 Filed 3-12-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-58-007]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 7, 1984.

Take notice that Southern Natural Gas Company (Southern), on March 1, 1984 tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1 and First Revised Volume No. 2A. The changes consist of decreased sales rates resulting from the settlement of the *Marine Construction Antitrust Litigation*.

Copies of the filing were served upon Southern's jurisdictional customers, interested state public service commissions, and all parties of record.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6623 Filed 3-12-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-2-7-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 7, 1984.

Take notice that Southern Natural Gas Company (Southern), on March 1, 1984, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective April 1, 1984. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes reflect a net decrease in Southern's rates as a result of the following items:

(1) A Current Adjustment pursuant to § 17.3 of the General Terms and Conditions of Southern's Tariff, reflecting an annual increase in the cost of purchased gas to jurisdictional customers of $34,184,771 or approximately 7.263¢ per Mcf.

(2) A Surchage Adjustment for Unrecovered Purchased Gas Costs of 4.632¢ per Mcf which is a decrease of 12.010¢ per Mcf from the present Surcharge Adjustment. This Surcharge Adjustment includes a negative rate surcharge to flow through over a twelve-month period beginning April 1, 1984 refunds received from Gulf Oil Corporation and Exxon Company, U.S.A. in accordance with the Commission's order issued February 29, 1984 in *Southern Natural Gas Company*, Docket No. TA84-1-7-002.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to § 9.6(3) of the General Terms and Conditions of Southern's Tariff of (.021¢) per Mcf which reflects a decrease of .018¢ from such present Surcharge Adjustment.

Southern is also filing Ninth Revised Sheet No. 45R with a proposed effective date of April 1, 1984. Such tariff sheet reflects a projected incremental pricing surcharge adjustment of (.002¢) for the six-month period beginning April 1, 1984.

Copies of the filing were served upon all of the Company's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6624 Filed 3-12-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-50-000]

Transco Gas Supply Co.; Tariff Filing

March 7, 1984.

Take notice that on March 1, 1984 Transco Gas Supply Company (Gasco) tendered for filing Sixth Revised Sheet No. 106 to its FERC Gas Tariff, Original Volume No. 2. The revised tariff sheet provides for a change in the percentage applicable to return and income taxes for Gasco's rate base from 15.26% to 22.47% and is being filed to comply with Section 1B of Appendix A of Gasco's FERC Gas Tariff which requires that Gasco's rate of return and income tax factor be the same as that of its affiliate, Transcontinental Gas Pipe Line Corporation (Transco). In that regard, Transco is filing concurrently revised rates to be effective April 1, 1984 to comply with the Commission's suspension order of October 28, 1983 in Transco's general rate increase filing in Docket No. RP83-137. Said concurrent filing of Transco reflects the rate base, return and tax amounts from which the appropriate return and tax factor for Gasco of 22.47% is derived. Gasco proposes that its filing be made effective on April 1, 1984, subject to refund depending on the outcome of the return and income tax factor in Transco's Docket No. RP83-137.

Gasco states that copies of the filing have been mailed to Transco and, for information purposes, to each of Transco's jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.21 and 385.214). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6625 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-30-015]

Transcontinental Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

March 7, 1984.

Take notice that on March 1, 1984, Transcontinental Gas Pipe Line Corporation (Transco), filed alternate sets of revised tariff sheets, proposed to be effective April 1, 1984, to Original Volume No. 2 of its FERC Gas Tariff contained in Appendix A and Appendix B to its filing. Transco states that such sheets are being filed in accordance with Article IV of the "Interim Settlement Agreement as to Rates of Transcontinental Gas Pipe Line Corporation" (Interim Agreement) in Transco's Docket No. RP83-30-000 which is presently pending before the Commission as a unanimous settlement agreement. Both sets of sheets provide for conversion of Transco's production area rates generally to a rolled-in production area mileage-based rate, with the Appendix A sheet providing for one-third of such conversion on the assumption that full agreement is reached with each shipper in accordance with Article IV of the Interim Agreement while the Appendix B sheets provide for the full conversion to a rolled-in rate where the shipper has not agreed prior to April 1, 1984. Transco states that it will advise the Commission as promptly as possible prior to April 1, 1984 of the final status of the negotiations with shippers called for in Article IV and which of the tariff sheets in Appendixes A and B are to be made effective.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6626 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-51-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

March 7, 1984.

Take notice that on *March 1*, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Revised Sheet No. 17 and
Second Revised Sheet No. 18

Transco states that these tariff sheets are part of Rate Schedule T-P which is entitled "Transportation Service for End Users in the Production Area", and that Sheet Nos. 17 and 18 which are currently on file reflect Transco's currently effective rates for transportation service in Transco's production area. However, it is stated that, on even date herewith, Transco is filing in its Docket No. RP83-30-000 to implement a new rolled-in production area mileage-based rate commencing April 1, 1984. It is further stated that, for this purpose, "rolled-in production area" means that the entire production area system, both onshore and offshore, shall be treated as a single system.

Transco states that the attached tariff sheets are being filed so that the transportation rates charged under Rate Schedule T-P will be the same as the rolled-in rates being filed by Transco in Docket No. RP83-30-000. It is stated that the rates shown on the attached sheets are: Downstream Delivery-6.8¢ per dt for the first 50 miles of haul or any portion thereof, and 3.4¢ per dt for each additional 25 miles of haul or any portion thereof; Upstream Delivery-6.8¢ per dt. Transco states that such rates will be charged subject to refund depending on the outcome of the proceedings in Docket No. RP83-30-000 and in Transco's Docket No. RP83-137-000.

Transco proposes that the attached sheets be made effective April 1, 1998, which is the same effective date that Transco is requesting for the rolled-in rates being filed in Docket No. RP83-30-000. Transco states that a copy of the instant filing has been served on its customers and interested state commissions.

Transco states that it has previously filed and currently has pending for acceptance First Revised Sheet No. 18, and that the purpose of such filing was to clarify that the GRI Adjustment Charge shall be collected if applicable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests should be filed on or before *March 16*, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6627 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-137-003

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 7, 1984.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on March 1, 1984, tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The purpose of the instant filing is to adjust the rates filed on September 30, 1983: (1) To reflect a modified fixed-variable cost classification and rate design, (2) to comply with Ordering Paragraph C of the Commission's order of October 28, 1983 in this proceeding by eliminating the cost of facilities not expected to be in service by March 31, 1984 and reflecting the currently estimated balance of advance payments at March 31, 1984, (3) to reflect intervening tracking filings subsequent to the original filing in this docket and (4) to reflect the average of the thirteen monthly balances ending March 31, 1984 for pre-paid gas cost amounts. The proposed effective date of this rate change is April 1, 1984, the conclusion of the suspension period in this case.

Transco requests waiver of such of the Commission's Regulations as may be applicable in order that the revised tariff sheets may be made effective April 1, 1984, subject to refund.

Alternatively, if the Commission declines to permit the tariff sheets

reflecting the modified fixed-variable methodology to become effective, Transco requests that alternative tariff sheets which also reflect the cost and intervening tracking revisions as described above but implement the *Seaboard* method of cost classification and rate design which was utilized in the original filing of September 30, 1983 in this docket, be made effective April 1, 1984, subject to refund.

Transco further states that in accordance with Section 154.16 of the Commission's Regulations, copies of this filing were mailed to all parties to this proceeding and to all persons upon whom the original filing herein was made.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6628 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

March 7, 1984.

Take notice that Transwestern Pipeline Company (Transwestern) on March 1, 1984 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Twenty-fifth Revised Sheet No. 5
Twenty-fourth Revised Sheet No. 6
Ninth Revised Sheet No. 6A

The above tariff sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment reflected in these sheets is an increase of $.2503/dth. The rate change therein consists of:

(1) An increase in the cost of Gas Adjustment of $.1007/dth based upon increases in the projected gas costs; and

(2) An increase in the Surcharge Adjustment of $.1496/dth due to an increase in the balance in the Gas Cost Adjustment Account as of December 31, 1983.

In this connection, the Incremental Pricing Surcharges for the months of April, 1984 through September 1984 are projected to be zero.

The maximum surcharge absorption capability on Transwestern's system is insignificant in comparison to Transwestern's incremental acquisition costs. While Transwestern is submitting the Summary Sheet as Schedule No. 2, preparation of the supplement analysis, *Sources of Supply Covered by NGPA Maximum Lawful Prices*, as required by § 282.602(d)(2)(i) of the Commission's Regulations, is extremely voluminous and burdensome, and Transwestern has not been able to complete the supplemental analysis to date. Transwestern, therefore, is not submitting this supplemental data at this time and respectfully requests waiver of the Regulations to allow Transwestern to submit this information at a later date if the Commission believes it should be required to do so.

The proposed effective date of these tariff sheets is April 1, 1984.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6629 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-52-000]

Northwest Pipeline Corp.; Tariff Filing

March 7, 1984.

Take notice that on March 2, 1984, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets.

Original Volume No. 2 Tariff
Ninth Revised Sheet No. 2
Fourth Revised Sheet No. 2-B
First Revised Volume No. 1 Tariff
Ninth Revised Sheet No. 10-A

Pursuant to the provision contained on Sheet Nos. 2 and 2-B of Northwest's Volume No. 2 Tariff and Section 7.3 of Rate Schedule T-1 in its First Revised Volume No. 1 Tariff, Northwest is filing to reflect new Fuel Reimbursement Percentages to be effective April 1, 1984 based on the calendar year ending December 31, 1983.

The proposed effective date of the tendered tariff sheets is April 1, 1984.

A copy of this filing has been served on Pacific Interstate Transmission Company, Northwest's jurisdictional customers, and affected state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 385.214). All such petitions or protest should be filed on or before March 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-6620 Filed 3-12-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRI-2543-4]

Administrator's Toxic Substances Advisory Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Administrator's Toxic Substances Advisory Committee

(ATSAC) will convene to discuss OTS confidentiality issues ranging from a discussion of the interpretation of confidentiality under TSCA to finding ways to achieve a better balance between the important need for public access to certain information and the legitimate need to protect confidential business information. This discussion is intended to open the dialogue on a very difficult and sensitive issue. If time permits, general activities of the Office of Toxic Substances, including a brief program update, will be covered. The meeting will be open to the public.

DATE: The meeting will take place on Wednesday, March 28, 1984, at 9:00 a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: Rm. M–3908, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Marylouise Uhlig, Designated Federal Official, Administrator's Toxic Substances Advisory Committee (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–637, 401 M Street, SW., Washington, D.C. 20460, (202—382–2906), or

Laura W. Cross, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–637, 401 M Street, SW., Washington, D.C. 20460, (202—382–2890).

SUPPLEMENTARY INFORMATION: The ATSAC agenda will begin with opening remarks by Jack Moore, Assistant Administrator for Pesticides and Toxic Substances. His remarks will set the stage for discussing the difficult issue of confidentiality. At 9:30 a.m., representatives from the Information Management Division, OTS and the Office of General Counsel will report on the offices' activities, issues and viewpoints regarding TSCA confidentiality.

In the afternoon session, representatives from industry, labor, environmental groups and the public will make presentations and present issues for discussion on the issue of confidentiality. It is intended that the meeting will result in an open exchange of viewpoints between ATSAC members, speakers and other attendees. If time permits, program activities of the last three months will be provided by staff from the Office of Toxic Substances (OTS).

The meeting will be open to the public, and time will be set aside for public comments in each area of discussion. Any member of the public wishing to present an oral or written statement relating to the committee's work should contact the ATSAC staff at the address or phone numbers listed above.

Dated: March 7, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84–6674 Filed 3–12–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2387]

A&A Express International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of A&A Express International, Inc. was cancelled effective February 22, 1984.

By letter dated January 30, 1984, A&A Express International, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2387 would be automatically revoked unless a valid surety bond was filed with the Commission.

A&A Express International, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2387 be and is hereby revoked effective February 22, 1984.

It is ordered, that independent Ocean Freight Forwarder License No. 2387 issued to A&A Express International, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon A&A Express International, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–6639 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2049]

Cesar Justo Rizzoni d.b.a. Omega Forwarding Co.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond in favor of Cesar Justo Rizzoni dba Omega Forwarding Company was cancelled effective February 26, 1984.

By letter dated January 30, 1984, Cesar Justo Rizzoni dba Omega Forwarding Company was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2049 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cesar Justo Rizzoni dba Omega Forwarding Company has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2049 be and is hereby revoked effective February 26, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2049 issued to Cesar Justo Rizzoni, dba Omega Forwarding Company be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Cesar Justo Rizzoni dba Omega Forwarding Company.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–6638 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

pursuant to the provisions of Section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): The Peninsular and Oriental Steam Navigation Company, and Investors in Industry PLC c/o P & O Inc., 2029 Century Park East, Los Angeles, CA 90067.

Dated: March 7, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–6637 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on February 28, 1984, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–88.

Title: The Boston Shipping Association, Inc. and the International Longshoremen's Association Local 1066 Agreement.*

Synopsis: Agreement No. LM–88 is an agreement among the members of Local 1066, International Longshoremen's Association and the Boston Shipping Association, Inc., covering the Guaranteed Annual Income Program of the Local. The Guaranteed Annual Income Articles provide for an increased assessment in the cargo assessment for the GAI. The agreement covers the Port of Boston and Vicinity.

Filing party: Alfred E. Frizelle, Manager—Contract Administration, The Boston Shipping Association, Inc., 223 Lewis Wharf, Boston, Massachusetts 02110

Dated: March 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–6706 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on February 28, 1984, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat., 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–87.

Title: The Boston Shipping Association, Inc., and the International Longshoremen's Association Locals 799, 800, 805 Agreement.

Synopsis: Agreement No. LM–87 is an agreement among the members of Locals 799, 800, 805 and the Boston Shipping Association, Inc., covering the Guarantee Annual Income Program of the Locals. The Guaranteed Annual Income Articles provide for an increased assessment in the cargo assessment for the GAI. The agreement covers the Port of Boston and Vicinity.

Filing party: Alfred E. Frizelle, Manager—Contract Administration, The Boston Shipping Association, Inc., 223 Lewis Wharf, Boston, Massachusetts 02110.

Dated: March 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–6705 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License Applicants; F. B. Vandergrift & Co. Inc.

Notice is hereby given that the following appliants have filed with the Federal Maritime Commission applications for licenses as independent ovean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not received a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

F. B. Vandegrift & Co. Inc., 220 West Ivy Avenue, Inglewood CA 90302, Officers: Paul H. Lippe, President, David C. Bernstein, Vice Pesident

Florida Overseas Services, Inc., 7236 NW. 70th Street, Miami, FL 33166, Officers: Jonathan Edward Arostegui, President, Kathleen Shirley Arostegui, Secretary/Treasurer, Jorge Nilo Diaz, Vice President, Ricardo E. Rubio, Vice President

Maria Josefina Zarragoitaia d.b.a. Marz Worldwide Services, 6321 NW. 37th Place, Miami, FL 33147

Dated: March 8, 1984.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–6711 Filed 3–12–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Commercial Landmark Corporation; Merger of Bank Holding Companies

Commercial Landmark Corporation, Muskogee, Oklahoma, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Commercial Bancshares, Inc., Tulsa, Oklahoma, which owns Commercial National Bank of Tulsa, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than April 4, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–6647 Filed 3–12–84; 8:45 am]

BILLING CODE 6210–01–M

Correction; E. F. Wonderlic Companies, Inc.

This notice corrects a previous **Federal Register** document (FR Doc. No. 84–3365), published at page 4848 of the issue for Wednesday, February 8, 1984 (Eagle Financial Services, Inc.). E. F. Wonderlic Companies, Inc., Northfield, Illinois, also proposes to engage in commercial finance and loan servicing activities. Comments on this application must be received not later than March 28, 1984.

Board of Governors of the Federal Reserve System, March 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–6649 Filed 3–12–84; 8:45 am]

BILLING CODE 6210–01–M

United Security Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 4, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *United Security Bancshares, Inc.*, Thomasville, Alabama; to acquire 68.835 percent of the voting shares or assets of First National Bank of Butler, Butler, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dike Bancshares Corporation*, Dike, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares or assets of Iowa Savings Bank, Dike, Iowa.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Oslo Bancorporation, Inc.*, Oslo, Minnesota; to become a bank holding company by acquiring 96.8 percent of the voting shares of Valley State Bank of Oslo, Oslo, Minnesota.

Board of Governors of the Federal Reserve System, March 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-6648 Filed 3-12-84; 8:45 am]

BILLING CODE 6210-01-M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; C. Y. Tung & Sons Co. Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received no later than April 4, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *CY Y. Tung & Sons Co., Inc.*, Hong Kong, BCC; to become a bank holding company by acquiring 47.86 percent of the voting shares of Global Bancorporation, New York, New York, and thereby indirectly acquire Global Union Bank, New York, New York.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *C. T. Tung Financial Corporation*, Hong Kong, BCC, and American Asian Bancorp, San Franciso, California; to become bank holding companies by acquiring 65 and 66 perent, respectively, of the American Asian Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, March 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-6704 Filed 3-12-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Research Project Initiation

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of Research Project Initiation.

SUMMARY: The Centers for Disease Control (CDC) will soon begin data collection on a research project entitled "Epidemiologic Study of the Health of Vietnam Veterans." The purpose of this study is to determine the possible adverse health effects of exposure to the herbicide "Agent Orange," the possible adverse health effects of military service in southeast Asia during the Vietnam conflict, and the degree to which Vietnam veterans stand at risk of selected cancers. This project was mandated by the Congress under the "Veterans Health Programs Extension and Improvements Act of 1979" and the "Veterans' Health Care, Training, and Small Business Loan Act of 1981." Individuals and organizations from whom data is collected for the study will be assured of confidentiality under sections 304, 306, and 308 of the Public Health Service (PHS) Act (42 U.S.C. 242b, 242k, and 242m). This notice does not constitute a request for proposals.

DATE: Data collection is scheduled to begin on or about September 1, 1984.

FOR FURTHER INFORMATION CONTACT: J. David Erickson, D.D.S., Ph. D., Agent Orange Project Director, Chronic Diseases Division, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 452-4072 or FTS 236-4072.

SUPPLEMENTARY INFORMATION: Data collection on the following research project will begin on or about September 1, 1984.

Title: Epidemiologic Study of the Health of Vietnam Veterans.

Project Officer: J. David Erickson, D.D.S., Ph. D.

Purpose: The purpose of this study is to determine the possible adverse health effects of exposure to the herbicide Agent Orange, the possible adverse health effects of military service in

southeast Asia during the Vietnam conflict, and the degree to which Vietnam veterans stand at risk of selected concers.

Background: Between August 1965 and February 1971, approximately 11.3 million gallons of the herbicide "Agent Orange" (so named because of the orange markings on the drums in which it was shipped) were sprayed over much of South Vietnam in military operations designed to deprive the enemy of cover and food. A chemical contaminant, 2,3 7,8-tetrachlorodibenzo-*p*-dioxin, more often called TCDD, or simply dioxin, was created during the manufacture of the herbicide Agent Orange and was contained in the Agent Orange which was sprayed. Dioxin has been shown to be a highly toxic substance.

In January 1978, the Veterans' Administration (VA) received the first of many claims from veterans who felt that their current health problems resulted from their having been exposed to Agent Orange while serving in Vietnam. In January 1979, the Congress of the United States enacted legislation ("Veternas Health Program Extension and Improvements Act of 1979," Public Law 96–151, 38 U.S.C. 219) directing the VA to design and conduct an epidemiologic study to determine if exposure to Agent Orange had caused long-term adverse health effects in Vietnam veterans. In November 1981, the scope of the study was amended and expanded by the "Veterans' Health Care, Training, and Small Business Loan Act of 1981" (Public Law 97–72) to include other factors in the "Vietnam Experience," including medications and environmental hazards or conditions.

In January 1983, the responsibility for designing and conducting the investigation was transferred from the VA to the CDC. In May 1983, CDC scientists completed detailed guidelines (protocol) for the Agent Orange and Vietnam Experience studies and recommended that a third investigation by conducted at the same time to determine the risk of Vietnam veterans developing selected types of cancers.

Study Description:

Agent Orange and Vietnam Experience Components

Both are retrospective cohort studies. Each has a separate purpose: The Agent Orange component is designed to learn if troops exposed to the herbicide during service in Vietnam have suffered long-term adverse health effects as a result of that exposure; the Vietnam Experience component is designed to demonstrate whether or not there is any difference in the health of veterans of the Vietnam era who served in Vietnam compared to the health of veterans of the Vietnam era who served in Vietnam compared to the health of veterans who served in other countries during the same period.

With the help of the Department of Defense and other agencies, CDC intends to identify 30,000 qualitied veterans to participate in the studies; 6,000 each in five separate cohorts. The five cohorts are composed of veterans who:

1. Served during 1967–68 in a specified area of Vietnam, and were likely to have been exposed to Agent Orange.
2. Served during 1967–68 in the same area of Vietnam as cohort 1, and were not likely to have been exposed to Agent Orange.
3. Served during 1967–68 in an area of Vietnam other than cohorts 1 and 2, and were not likely to have been exposed to Agent Orange.
4. Served in Vietnam during 1966–71. Randomly selected from all areas.
5. Served during 1966–71 in countries other than Vietnam.

Data for the Agent Orange component will be collected from participants in cohorts 1, 2, and 3. Cohorts 4 and 5 will provide data for the Vietnam Experience component.

Through the assessment of mortality data, using local records and interviews with next of kin or medical personnel, CDC will attempt to determine what factors caused the deaths of some of the selected participants.

A health questionnaire will be administered via telephone to all living participants. The questionnaire will cover current and previous health status and lifestyle factors which may affect health. Ten thousand veterans (2,000 from each cohort) will be given comprehensive medical examinations. Nongovernment research firms and medical centers will be contracted to collect the data under scientific and managerial surveillance by CDC.

Veternas' expenses for travel, lodging, etc., will be paid by the U.S. Government. Physicians and other health providers working on the study will not provide any treatment for individuals. If a veteran's medical examination indicates the possible existence of any medical problem, the veteran will be advised immediately and encouraged to seek treatment from the VA or from private or other sources of medical services.

Selected Cancers Component.

This part will consist of a pupulation-based concurrent case-control study. Data for the study will be collected by institutions which maintain registries of cancers reported in specific geographic areas. (The Surveillance, Epidemiology, and End Results (SEER) Centers of the National Cancer Institute, and other similar university or State or local government-operated registries are potential sources for this component.) Cases will include all reported malignancies selected for study which have been reported among male residents born between January 1, 1929, and December 31, 1953. Controls will be randomly selected men, of approximately the same age, who reside in the same areas as the reported cases.

Assurance of Confidentiality

Sections 304, 306, and 308 of the PHS Act, as amended (42 U.S.C. 242b, 242k, and 242m) authorize the Secretary of the Department of Health and Human Services to give Assurance of Confidentiality in obtaining statistical and epidemiological information. This authority has been redelegated to the Director, CDC, who has determined that giving Assurance of Confidentiality is appropriate in this study because of the personal nature of the data to be collected from living participants and, in the case of selected participants found to be deceased, from family members, medical personnel, and recordkeeping institutions.

All personal information which could be identified as relating to an individual will be kept confidential and unavailable to any person or organization outside the Public Health Service and its authorized researchers, unless its release is personally authorized by that individual.

All persons and organizations asked to participate in this study will be informed in writing of this Assurance of Confidentiality. Participants will be advised that no one, including their families, will be able to acquire identifiable personal information related to this study, even after the participants' death.

Dated: March 6, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84–6690 Filed 3–12–84; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 84F–0030]

B. F. Goodrich Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the B. F. Goodrich Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acrylic plastics as components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3773) has been filed by the B. F. Goodrich Co., 500 South Main St., Akron, OH 44318, proposing that the food additive regulations be amended to provide for the safe use of the semirigid and rigid acrylic and modified acrylic plastics listed in 21 CFR 177.1010 as components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 24, 1984.

John M. Taylor,

Acting Director, Bureau of Foods.

[FR Doc. 84–6633 Filed 3–12–84; 8:45 am]

BILLING CODE 4160–01–M

Drew Chemical Corp.; Co–Ra–Zone and Co–Ra–Zone 13–Mix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Drew Chemical Corp., providing for use of the nitrofurazone-containing premixes Co–Ra–Zone and Co–Ra–Zone 13–Mix in manufacturing chicken feeds for prevention of coccidiosis. The sponsor requested withdrawal of approval.

EFFECTIVE DATE: March 23, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Drew Chemical Corp., 416 Division St., Boonton, NJ 07005, is sponsor of NADA 6–649 which provides for use of Co–Ra–Zone and Co–Ra–Zone 13–Mix premixes (2.2 percent and 13.3 percent nitrofurazone, respectively) in manufacturing chicken feeds for prevention of coccidiosis. The application was approved on February 21, 1950. Approval of this NADA has not been codified in the code of Federal Regulations. The product is one of several that were listed in a notice of opportunity for hearing published in the **Federal Register** of August 17, 1976 (41 FR 34899). Drew Chemical Corp. has requested withdrawal of approval of the NADA under § 514.115(d) (21 CFR 514.115(d)) because the product is no longer being marketed.

Section 514.115(d) allows the voluntary withdrawal of an approved NADA. Section 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, the firm's request is being granted because of the extended time that has elapsed since the notice of opportunity for hearing was published and also because the public interest will be served and the firm's interests will not be prejudiced by the withdrawal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 6–649 and all supplements for Drew Chemical Corp.'s Co–Ra–Zone and Co–Ra–Zone 13–Mix is hereby withdrawn, effective March 23, 1984.

Dated: March 2, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84–6631 Filed 3–12–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84F–0041]

Keller & Heckman; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Keller & Heckman has filed a petition proposing that the food additive regulations be amended to permit the use of hydrogen peroxide as a sterilizing agent at concentrations below those that are currently specified for sterilizing food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3777) has been filed by Keller & Heckman, 1150 17th St. NW., Washington, DC 20036, proposing that the food additive regulations be amended in 21 CFR 178.1005 to permit the use of hydrogen peroxide as a sterilizing agent at concentrations below those that are currently specified for sterilizing food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 24, 1984.

John M. Taylor,

Acting Director Bureau of Foods.

[FR Doc. 84–6632 Filed 3–12–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83F–0259]

Thiokol/Carstab Corp.; Amended Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending a notice that announced the filing of a food additive petition for the safe use of dimenthyltin/monomethyltin isooctylmercaptoacetates as and antioxidant and/or stabilizer for polymers in contact with food. The petitioner, Thiokol/Carstab Corp., also is proposing that the food additive regulations be amended to provide for the safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as an antioxidant and/or stabilizer in rigid polyvinyl chloride in contact with food.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice was given in the **Federal Register** of August 19, 1983 (48 FR 37713) that a petition (FAP 3B3740; Docket No. 83F–0259) had been filed by Thiokol/Carstab Corp., West St., Cincinnati, OH 45215, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as an antioxidant and/or stabilizer for polymers in contact with food, complying with § 177.1950 *Vinyl chloride-ethylene copolymers (21 CFR 177.1950) and § 177.1980 Vinyl chloride-propylene copolymers* (21 CFR 177.1980).

Notice is given that the petition also proposes that 21 CFR 178.2010 be amended to provide for the safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as an antioxidant and/or stabilizer in rigid polyvinyl chloride in contact with food.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 24, 1984.

John M. Taylor,

Acting Director, Bureau of Foods.

[FR Doc. 84–6634 Filed 3–12–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, Evaluation of the HCFA Alcoholism Services Demonstration, HHS/HCFA/ORD No. 09–70–0031. We have provided background information about the proposed system in the "Supplementary Information" section below. HCFA invites public comments by April 12, 1984, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on March 7, 1984. The new system, including routine uses, will become effective May 7, 1984, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Glenda Beller, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, Room G–C–3 ELR, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Tony Hausner, Evaluative Studies Staff, Office of Research and Demonstrations, Health Care Financing Administration, Room 2–F–3, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301–597–2366.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records containing data collected under the authority of section 402 of the 1967 Amendments to the Social Security Act, Pub. L. 90–248, as amended by section 222(b) of the 1972 Amendments to the Social Security Act, Pub. L. 92–603, and section 1115(a) of the Social Security Act, as amended by section 404 of Pub. L. 95–216. The purpose of this system of records is to provide data necessary to evaluate HCFA's Alcoholism Services Demonstration project. The system will furnish information necessary to study differences in behavioral outcome, utilization of detoxification and rehabilitation services, and total health care costs for Medicare and Medicaid clients of hospital-based alcoholism service providers and freestanding demonstration providers. The system of records will include data collected through sample surveys of Medicare and Medicaid beneficiaries who receive alcoholism treatment services from the demonstration and comparison hospitals. Demonstration providers included in the evaluation are: Alfre Inc., Stirling, New Jersey; Century House, Red Bank, New Jersey; Center for Addictive Illnesses (CAI), Moristown, New Jersey; Endeavor House, Keyport, New Jersey; Honesty House, Stirling, New Jersey; Newark Alcohol Detox Program, Newark, New Jersey; New Hope Foundation Inc., Marlboro, New Jersey; Open Door Alcoholism Program, New Brunswick, New Jersey; PROCEED, Inc., Elizabeth, New Jersey; Turning Point, Inc., Verona, New Jersey; Union County Detox Center, Inc., Elizabeth, New Jersey; United Community Alcoholism Network (UCAN), Newark, New Jersey; Action for a Better Community, Rochester, New York; Alcoholism Services of Erie County, Inc., Buffalo, New York; Economic Opportunity Program, Inc., of Chemung County, Elmira, New York; Finger Lakes Alcoholism Counseling and Referral Agency, Clifton Springs, New York; Health Association of Rochester and Monroe Counties, Inc., Rochester, New York; Livingston Council on Alcoholism, Inc., Mt. Morris, New York; Park Ridge Chemical Dependency, Inc., Rochester, New York; Plainview Rehabilitation Center, Plainview, New York; St. Joseph's Rehabilitation Center, Inc., Saranac Lake, New York; Salvation Army Sobering Up Station, Elmira, New York; Steuben County Alcohol Abuse Program, Bath, New York; Syracuse Brick House, Inc., Syracuse, New York. Other demonstration providers may be added over the course of the demonstration. Hospital providers will be from the same states and counties.

In order to fulfill the objectives and complete the tasks in this project, the contractor, Lawrence Johnson & Associates, Inc., and its subcontractor, SysteMetrics, Inc., must have individually-identified records. Since it is proposed to establish this system of records in accordance with the requirements and principles of the Privacy Act, it is not anticipated that it will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine use"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatability criteria since the information is collected for administering the Medicare program for which we are responsible. Further, disclosure of the contents of records which pertain to an individual's alcohol abuse is restricted under the provisions of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR, Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 290dd–3, as amended by Pub. L. 98–24. We anticipate that disclosures under the

routine uses will not result in any clearly unwarranted adverse effects on personal privacy.

Dated: March 7, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

SYSTEM NAME:

Evaluation of the HCFA Alcoholism Services Demonstration HHS/HCFA/ORD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Lawrence Johnson & Associates, Inc., 4545 42nd Street, NW., Suite 103, Washington, D.C. 20016; SysteMetrics, Inc., 104 W. Anapamu, Santa Barbara, California 93101.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare and Medicaid beneficiaries using alcoholism services in freestanding demonstration providers and selected hospital service units in the following states and counties; *New Jersey:* Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, Warren; *New York:* Albany, Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Tiago, Tompkins, Warren, Washington, Wayne, Wyoming, Yates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Domographic characteristics, such as age, sex, race, educational level, and marital status; factors related to general physical and psychological health; factors related to history of alcohol use and abuse.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402 of the Social Security Amendments of 1967, Pub. L. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Pub. L. 92–603, 42 U.S.C. 1395b–1, and section 1115(a) of the Social Security Act as amended by section 404 of Pub. L. 95–216.

PURPOSE OF THE SYSTEM:

To provide data necessary to evaluate HCFA's Alcoholism Services Demonstration project, including differences in behavioral outcome, utilization of detoxification and rehabilitative services, and total health care costs for Medicare and Medicaid clients of hospital-based alcoholism service providers and freestanding demonstration providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure may be made:

1. For the exchange of information between the contractor and subcontractor, who will use this information to assess the feasibility of expanding coverage of alcoholism services to Medicare recipients and Medicaid eligibles to include services provided by freestanding residential treatment centers and freestanding outpatient treatment facilities.

2. To a congressional office from the record of an individual in response to an inquiry which the congressional office makes at the request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component fo the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by beneficiary name and/or health insurance number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. In addition, all employees using the data will sign statements assuring confidentiality of the data. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by DHHS ADP Systems Manual, Part 6, ADP Systems Security (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards. Lastly, disclosure of the contents of records which pertain to an individual's alcohol abuse is restricted under the provisions of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR, Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 290dd–3, as amended by Pub. L. 98–24.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1986. Hardcopy will be destroyed at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, Room 4228, HHS Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager at the address indicated above, specify name, address, and health Insurance number.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager named above, and reasonably identify the record and specify the information to be contested. State the reason for contesting it, e.g., why it is inaccurate, irrelevant, incomplete or not current.

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include surveys to be conducted of Medicare and Medicaid beneficiaries by an evaluation contractor, and data abstracted from existing records systems such as the Medicare Bill File, Medicare Enrollment Records, Medicaid Tape-to-Tape Files, state Medicaid billing and enrollment files, State Alcoholism Authority client files, and MADRS.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-6655 Filed 3-12-84; 8:45 am]

BILLING CODE 4120-03-M

Medicare and Medicaid Programs; Schedules of Guidelines for Physical Therapy and Respiratory Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: This document corrects errors that appeared in the final notice published on September 30, 1983 (48 FR 44922) that established revised schedules of salary equivalency guidelines for Medicare reimbursement for the reasonable costs of physical therapy and respiratory therapy services furnished under arrangements by outside contractors and for certain State Medicaid programs. The schedules are used by fiscal intermediaries to determine the maximum allowable cost of those services. Effective with cost reporting periods beginning on or after October 1, 1983, the schedules do not apply for inpatient hospital services paid for under the prospective payment system or reimbursed in accordance with a ceiling on rate of hospital cost increases.

FOR FURTHER INFORMATION CONTACT: William Rush, 301-594-9777.

SUPPLEMENTARY INFORMATION: Several errors in calculations occurred in the listings of physical and respiratory therapy guidelines that were issued in the **Federal Register** on September 30, 1983. (Also, see the notice published October 18, 1983 (48 FR 48295) that contained corrections made by the Office of the **Federal Register**.) Therefore, in FR Doc. 83-26740, beginning on page 44922, in the issue of Friday, September 30, 1983, make the following corrections:

1. On page 44929, in the first column, in the Physical Therapy table, in the entry for Indiana, "8.57" should read "9.57".

2. Also on page 44929, in the third column, in the Certified Respiratory Therapy table, in the entry for Alaska, "11.13" should read "11.12"; and in the entry for Texas, "7.43" should read "7.23".

3. On page 44930, in the first column, in the Non-Registered, Non-Certified table, in the entry for North Dakota, "7.95" should read "7.45".

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), and 1395hh; 42 CFR 405.432)

Approved: March 6, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-6680 Filed 3-12-84; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

National Center for Health Services Research; Notice of Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, and use (indications) of hyperthermia in the treatment of superficial and subcutaneous malignancies. The assessment will include:

1. Hyperthermia used alone.
2. Hyperthermia used with chemotherapy.
3. Hyperthermia used with radiation therapy.

For the purposes of this announcement, hyperthermia is defined as the process of applying local or regional heat to surface or subsurface tumors in order to eradicate cancer cells without intentionally raising the temperature of uninvolved areas.

Specifically, we are interested in knowing whether this method has significant advantages or disadvantages when compared with other methods of treatment for superficial and subcutaneous malignancies. If it proves to be safe and clinically effective, what are specific indications for its use and how many courses of therapy are reasonable and necessary?

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. They incorporate the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicate coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than May 14, 1984, or within 90 days from the publication of this notice.

The information being sought is: (1) A review and assessment of past, current, and planned research related to this technology; (2) A bibliography of published, controlled, clinical trials and other well-designed clinical studies since 1973; (3) Other information related to the characterization of the patient population most likely to benefit, and (4) Information concerning clinical acceptability, and effectiveness of the technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Bette L. Lemperle, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Bette L. Lemperle, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: February 24, 1984.

Enrique D. Carter,

Acting Director, Office of Health Technology Assessment.

[FR Doc. 84-6593 Filed 3-12-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-84-732; FR-1903]

Delegation of Authority With Respect to Programs Transferred to the Revolving Fund (Liquidating Programs)

AGENCY: Department of Housing and Urban Development (HUD); Office of the Secretary.

ACTION: Notice of concurrent delegation of authority.

SUMMARY: The Revolving Fund (Liquidating Programs) contains a miscellany of assets and liabilities remaining from various Federal programs now discontinued and from certain programs in a liquidating status. The Revolving Fund is administered at present by the Assistant Secretary for Housing—Federal Housing Commissioner and General Deputy Assistant Secretary for Housing. This concurrent Delegation of Authority transfers the administration of the Revolving Fund to the Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development (CPD) and to each Regional Administrator, Deputy Regional Administrator, Director and

Deputy Director of each Regional Office of CPD.

EFFECTIVE DATE: March 1984.

FOR FURTHER INFORMATION CONTACT: John C. Barnett, Office of Management, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington D.C. 20410. Telephone (202) 755–6087 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: As a result of the recent reorganization of the Office of Housing in HUD Headquarters, the Secretary has approved the transfer of the functions and administration of the Revolving Fund (Liquidating Programs) from the Assistant Secretary for Housing-Federal Commissioner and General Deputy Assistant Secretary for Housing to the Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development (CPD) and to each Regional Administrator, Deputy Regional Administrator and Director and Deputy Director of each Regional Office of CPD.

The Revolving Fund (Liquidating Programs) was established by the Independent Offices Appropriation Act of 1955 to provide a single fund to assist in the efficient liquidation of assets acquired under various housing and urban development programs. The Revolving Fund includes the Public Facility Loans Program as its largest program. It also includes the assets of several grant programs, including Neighborhood Facilities, Open Space Land and Basic Water and Sewer Facilities. The Fund also includes the assets of the New Communities progam and miscellaneous programs, such as: Alaska Housing, War Public Works and Defense Community Facilities. The management of the Revolving Fund is currently in the Office of Housing. This delegation transfers the management of the Revolving Fund to the Office of Community Planning and Development and to HUD's Regional Offices.

Section A. Authority Delegated

The Secretary of Housing and Urban Development delegates to the Assistant Secretary for Community Planning and Development, the General Deputy Assistant Secretary for Community Planning and Development, each Regional Administrator and Deputy Regional Administrator, and each Director and Deputy Director of a Regional Office of Community Planning and Development all authority of the Secretary with respect to the functions, administration and management of the Revolving Fund (Liquidating Programs) listed below, except as indicated in sections B, C, and D.

1. Public Facility Loans Program of Title II of the Housing Amendments of 1955, as amended (42 U.S.C. 1491).

2. Basic Water and Sewer Facilities of Section 702 of the HUD Act of 1965 (42 U.S.C. 3102).

3. Open Space Land Program of Title VII of the Housing Act of 1961 (42 U.S.C. 1500).

4. Neighborhood Facilities of Section 703 of the HUD Act of 1965 (42 U.S.C. 3103).

5. New Communities Program of Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

6. All other programs consolidated in the Revolving Fund (Liquidating Programs) (12 U.S.C. 1701g–5).

Section B. Responsibility for Allotments

The Assistant Secretary for Community Planning and Development is the responsible official for allotments in the Revolving Fund (Liquidating Programs).

Section C. Authority To Issue Rules and Regulations

The Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development each is authorized to issue such rules and regulations as may be necessary to carry out the power and authority delegated under Section A.

Section D. Authority To redelegate

The Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development each is authorized to redelegate to the employees of the Department any of the power and authority delegated under Section A.

Section E. Delegations Superseded

This delegation supersedes and revokes the following:

1. Section A., paragraph 16, of the Delegation of Authority published at 36 FR 5005 (March 16, 1971), as amended, from the Secretary to the Assistant Secretary and Deputy Assistant Secretary for Housing Management (now Assistant Secretary for Housing-Federal Housing Commissioner and General Deputy Assistant Secretary for Housing);

2. The Redelegation of Authority published at 40 FR 50557 (October 30, 1975), from the Secretary to each Regional Administrator, Deputy Regional Administrator, Area Director and Deputy Area Director; and

3. All other preceding Delegations that are inconsistent with this document.

Authority: Sec. 7(d), Department of HUD Act (43 U.S.C. 3535(d)).

Dated: March 5, 1984.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 84–6660 Filed 3–12–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of the Oil Shale Environmental Advisory Panel

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Meeting of the Oil Shale Environmental Advisory Panel.

SUMMARY: In accordance with the requirements of Pub. L. 92–463, notice is hereby given that a meeting of the Oil Shale Environmental Policy Panel will be held on March 27 and 28, 1984, in Glenwood Springs, Colorado. The meeting will begin at 1:00 p.m. on March 27, and conclude at 4:00 p.m. on March 28.

DATE: The meeting will be on March 27 and 28, 1984, beginning at 1:00 p.m. on March 27 and concluding at 4:00 p.m. on March 28.

ADDRESS: The meeting will be held at: Ramada Inn, Aspen Room, 124 West 6th Avenue, Glenwood Springs, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Henry O. Ash, Office of the Oil Shale Environmental Policy Panel, Department of the Interior, Room 1010, Building 67, Denver Federal Center, Denver, Colorado 80225, (303) 234–3275.

SUPPLEMENTARY INFORMATION: The Oil Shale Environmental Advisory Panel was established to assist the Secretary of the Interior in the performance of functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The proposed revised Detailed Development Plan for Prototype Lease Tract C–b will be described by Cathedral Bluffs Shale Oil Company and the Oil Shale Environmental Advisory Panel will review and comment on the draft of the plan. The revised plan would replace a plan approved on August 30, 1977. Further review and public hearings will take place when the final plan is submitted. The Panel will also receive status reports on the retort abandonment plan and off-tract disposal site proposal for Lease Tract C–a (Rio Blanco Oil Shale Company), on the White River Shale Project (Tracts U–a and U–b) and on the Bureau of Land Management's Oil Shale Leasing program. The Panel will also hear reports from Department of the Interior field officials; and within the time

constraints, consider any other pertinent items which come before it.

The meeting will be open to the public. It is expected that space will permit at least 75 persons, in addition to the members of the Oil Shale Environmental Advisory Panel, to attend the meeting. Time will be provided on the afternoon and evening of March 27, for public comments on the Cathedral Bluffs draft plan. Interested persons may make brief presentations to the Panel or submit written statements. Requests for time on the agenda or for further information concerning the meeting should be made to the Panel Chairperson, Mr. Henry O. Ash, at the address set out above.

Minutes of the meeting will be made available for public inspection at the Oil Shale Environmental Advisory Panel office 30 days after the meeting.

Dated: March 8, 1984.

Garrey E. Carruthers,

Secretary of the Interior.

[FR Doc. 84-6800 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Federal Mineral Leasing Other Than Oil, Gas, Geothermal, Oil; Shale and Combined Hydrocarbon Leasing; Final Combined Mineral Lease Form

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Final Combined Mineral Lease Form.

SUMMARY: By notice published April 28, 1983, the Bureau of Land Management requested comments on a proposed combined mineral lease form (48 FR 19240–19242). Seven mining companies, three mining associations, and two individuals submitted comments. Generally, the comments support the concept of establishing consistency among the leasing of the various commodities, but because of the significant differences in the statutory and regulatory requirements, many commenters prefer separate forms for each of the various types of minerals, particularly a separate form for coal leases. A separate coal lease form is being developed.

However, for administrative efficiency and to help comply with the Paperwork Reduction Act, a combined lease form has been developed and is, by virtue of this notice, adopted for use in the leasing of Federal potassium, sodium, phosphate, gilsonite, sulphur in the States of Louisiana and New Mexico, asphalt in Oklahoma, and hardrock minerals. To aid the lessee in determining the requirements for the minerals leased and the lessor in filling out the form, references to the applicable mineral appear in the form when lease terms differ from one mineral to the next.

All comments received pursuant to the April 28, 1983, publication have been considered in the development of the final combined mineral lease form. The final form is set forth below. A discussion of the comments follows.

EFFECTIVE DATE: April 12, 1984.

ADDRESS: Comments and suggestions should be sent to: Director (650), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Marcia E. Rohn (202) 343–2893.

SUPPLEMENTARY INFORMATION: The comments are discussed below as they appear section-by-section in the proposed combined mineral lease form.

Part 1—Lease Rights Granted

One commenter objected to the proposed modification of the lease form which would require a new lease to be executed upon readjustment. By statute, certain mineral leases are issued for indefinite terms subject to readjustment in lease terms at certain intervals while certain other mineral leases are issued for definite terms with a preference right to renew the lease. As correctly pointed out by the commenter, a preferential right to a new lease is not the same as an extension of an original lease is not the same as an extension of an original lease with readjustment of lease provisions such as royalty and rental. For this reason, the block and the words "Lease Readjustment" have been removed from the first line of the first sentence under Part 1.

One commenter suggested that the form be modified to provide (1) that the Department give the lessee a notice as to whether a lease is to be readjusted prior to the date for readjustment, (2) that either party should be allowed to terminate the lease, and, (3) that if the government exercise its right to terminate, that such termination be suspended if the lessee files an appeal.

None of these suggestions have been adopted because these concerns are adequately covered in the regulations and need not be repeated in the form.

Section 1.—Six commenters objected to the phrase "where not inconsistent with the lease terms, regulations and orders hereafter promulgated" on the basis that this language is contrary to Section 31 of the Mineral Leasing Act of 1920 (30 U.S.C. 188). While not agreeing with the legal conclusions of this comment, as a matter of policy, we have deleted this phrase from Part 1, Section 1.

Section 2.—Four comments pertaining to the section were submitted. One commenter objected to the granting clause including the consideration of "bonuses" in addition to rentals, royalties and the observance of the conditions and convenants by the lessee. A lessee is required to pay only those bonuses, rentals and royalties which become due. Thus, to clarify that the lease is issued subject only to those payments which become due, the word "any" has been inserted before the word "bonuses."

In response to one commenter's suggestion, the phrase "beneficiate, concentrate or otherwise process" has been inserted between the words "remove" and "dispose."

Section 2 gives the lessee broad authority to drill for, mine, remove and dispose of the leased minerals. Specific development methods and conditions are addressed in the exploration and mining plan which must be approved prior to entry on the lands. Thus, the suggestion of one commenter that the granting clause be amended to broaden the lessee's right so significantly that it would be tantamount to giving the lessee a "blank check" to mine in any manner whatsoever and to do all else found necessary or convenient to do without restriction, limitation or liability was not adopted.

The lease also grants "on-lease rights-of-way." Separate rights-of-way under Title V are not needed for roads, power lines and similar improvements within the boundaries of the lease. Lessor reserves the power to manage these activities as part of the mining plan, however; no separate authorization or payment of fees is needed.

One commenter felt that this section was unclear because of the two parenthetical phrases on lines 2 and 3. For clarity in the final form, the parentheses around the phrase "and associated and related minerals" and the parenthetical phrase "and silica, limestone or other rock under Section 11 of the Act (30 U.S.C. 213)" have been removed. A new paragraph, applicable only to phosphate leases, has been added to this section. This new paragraph provides for use of deposits of silica, limestone or other rock by phosphate lessees in accordance with the Act (30 U.S.C. 213) upon payment of royalty.

Part II—Terms and Conditions

Section 1. Rentals.—Four comments concerning rentals were received. One

commenter requested that this section be expanded to include, as one alternative, a provision that rental for any year be credited against the total accrued royalties during the term of the lease. Since there is no statutory or regulatory basis for such a provision, this suggestion was not adopted. The other commenters expressed their concern that in issuing a lease a wrong box could be checked causing the lessee to pay incorrect rental and thereby put the lease in jeopardy. This potential error has been eliminated by inserting above each box the name of the mineral(s) to which the provision applies. The box providing for the set payment of rental for each calendar year has been eliminated because it does not apply to leases or lease renewals.

Section 2. Royalties.—Five comments were received on this section. All commenters noted the omission of the "attached schedule" referred to in this section and requested that either the royalties be set out in the final form or that the royalty schedule be published. It appears that the reference to a royalty schedule was misleading. It was not intended to be a reference to a general royalty schedule covering all minerals, but rather a reference to a specific royalty schedule developed for and attached to a specific lease. Except for sulphur, which has a set royalty of 5% of the gross value at the point of shipment to market, royalty rates are, and will continue to be, determined on a case-by-case basis, but never for less than the minimum rates specified in the statutes and/or regulations, e.g., 2% for sodium and potassium and 5% for phosphate. There are no minimum royalty rates statutorily established for the hardrock minerals.

Thus, these comments were not adopted. A general royalty schedule *per se* will not be published. However, a royalty schedule including the royalty rates, the point of valuation of the gross output (at the minehead, the point of shipment to market, etc.) and other pertinent data will be set out in the notices of competitive lease sale. For both noncompetitive and competitive leases, the schedule will be attached to the lease prior to execution by the prospective lessee.

Section 3. Bonds.—Two comments were received on this section. One commenter suggested that, if no specific bond amount was to be stated, the section on bonding be dropped. The language of Section 3 has been revised to state a specific lease bond amount.

The second commenter expressed concern that the language of Section 3 eliminated statewide and nationwide bonds. All minerals leasing regulations for minerals covered by this lease form allow for statewide and nationwide bonds, this section has been modified to reflect this. The provision allowing the authorized officer to increase the bond amount when additional coverage is required covers statewide and nationwide bonding as well as changed conditions on the leasehold, e.g., production or required reclamation or mined out areas.

Section 4. Diligence.—There were eight comments on this section. All commenters believed the section to be inadequate to some extent. Four commenters assumed that the 10-year production requirement referred to all minerals covered by this combined lease form. This requirement refers only to coal and has been deleted.

The other commenters requested clarifications of the diligence requirements, noting that the exceptions to diligence are complex and vary from mineral to mineral. Because a description of the differing diligence requirements would greatly increase the length of the form, the language of the April 1983 proposed lease form has been retained in this final lease form. Lessess should refer to the regulations for their particular mineral to determine diligence requirements and exceptions to diligence.

Section 5. Documents, evidence and inspection.—All eight comments received on this section objected to the specificity of the information listed, the requirement that the lessor be allowed to copy materials, and the seeming lack of protection afforded lessees' proprietary data. The language of this section has been revised to reflect the concerns of these comments. The reservation of authority to copy lessee's records has been limited to those documents reasonably necessary to verify compliance with the terms and conditions of the lease. The Secretary may exercise his reserved authority to inspect such documents or arrangements as, for example, contracts for the sale of production from leased deposits, processing agreements, transportation agreements or marketing arrangements. The right of the Secretary to have access to such documents is intended to include transactions to which the lesee or its related corporate entitites are parties.

The manner of access to and examination of the records and reports pertaining to lease terms and conditions is left to the regulations and to agreements between the lessor and the lessee. The emphasis of this section is on information necessary to verify compliance with lease terms and conditions. Such information may include financial records, maps or schematics of mine development, and the like. Further, to emphasize that much of the compliance information is protected from disclosure under the Freedom of Information Act, the language of the last sentence of the section has been changed to reflect this requirement. For specific information required by the lessor for compliance verification, lessees should consult the applicable operating regulations.

Section. 6. Domages to property and conduct of operations.—This section has been written in response to the eight comments received. All commenters requested clarification of certain terms used or deletion of certain paragraphs, generally paragraph two or three.

The new first paragraph of this section adopts the language suggested by one commenter who noted that the language appears in existing Federal oil and gas leases and in Federal Indian leases. Since one of the goals of this revised form is to assure consistency among federally leased minerals to the extent possible, this language is adopted.

The second and third paragraphs have been deleted and a new second paragaph inserted. The new paragraph entirely adopts the language of one commenter. It specifies that injury or damage to life, health , and property, including other natural resources, must be prevented and that, except for casual use, the lessor shall not conduct exploration or operations without first receiving necessary permits and approvals from the lessor. It also recognizes that more than one leasable mineral may occur in a leased area and that a lease for one mineral does not preclude the issuance of a lease for another mineral on the same land. However, it is recognized that this lease also grants the rights to develop related and associated minerals. Where those minerals are part of the lease grant, the lessor will not issue conflicting mineral leases. For example, a lessee may develop both potassium and sodium under a potassium lease. The lessor would not issue a conflicting sodium lease for the same lands.

Section 7. Protection of diverse interests and equal opportunity.—Three comments were received on this section. One commenter questioned the meaning of the term "complete freedom of purchase." One requested deletion of the section and its replacement with a statement that lessees comply with all applicable laws. The third commenter questioned the requirement for an 8-hour workday.

The final lease form retains the language of the proposed form because Section 30 of the Mineral Leasing Act of 1920 requires that these provisions be included in all mineral leases issued under the Act.

Section 8. Transfer of lease interest and relinquishment of lease.—The provisions affecting coal lease transfers only have been deleted from paragraph (a).

Three comments were recieved concerning lease relinquishments. They requested clarification of the term "legal subdivision" and a recognition of partial relinquishments. The language has been revised to delete the term "legal subdivision" and to recognize partial relinquishments.

Consistent with the regulations, relinquishment only relieves the lessee of obligations which have not yet arisen. For obligations that have already accrued, the lessee remains liable and the period of liability under lessee's bond will not be terminated until these obligations are satisfied.

One commenter also requested a recognition of reduction in the rental when the lease was partially relinquished. The language now reflects this.

Section 9. Delivery of premises, removal of machinery, equipment, etc.—The five comments received on this section were concerned that the language of the section exceeds the authority of the Department under existing mineral leasing and mining laws. The commenters believed this to be particularly true of the last sentence of the section concerning reclamation.

They pointed out that by far the most extensive reclamation requirements are those for coal mandated by the Surface Mining Control and Reclamation Act of 1977.

The language of the proposed lease form is contained in this final form. The intent of the language of this section is not to impose coal reclamation requirements on lessees of other minerals; it is to state in general terms that lessees have certain responsibilities to reclaim mined-out leaseholds. The procedures by which the authorized officer fixes the exact reclamation requirements are contained in the operating regulations for that leased mineral and are expressed in the stipulations attached to approved mining plans.

In accordance with one commenter, the language of the second sentence has been modified to recognize that the lessee may remove any materials that it elects to which will not interfere with mine preservation. In response to another comment to clarify what is meant by the word "mine," the word "workings" has been added after mine in line four of the first sentence.

Section 10. Proceedings in case of default.—One comment was received on this section. The commenter requested further clarification of judicial settlement of the dispute. The commenter suggested language in which time frames were mentioned for the lessor to notify lessee of noncompliance and for the lessee to respond. While the comment has some merit, it has not been adopted, and the language of the proposed lease form has been retained in this final lease form.

The regulations on lease cancellation do not mention time frames, and imposing additional requirements in the lease form is the action the Department will avoid. In addition, potential situation for seeking lease cancellation will vary and should be handled, within the broad outlines of the law and existing regulations, on a case-by-case basis.

Section 11. Heirs and successors-in-interest.—No comments were received on this section.

Section 12. Indemnification.—This new section contains a provision which requires the lessee to indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under the lease. This provision was unintentionally omitted from the proposed form.

Section 13. Special statutes.—This section was inadvertantly omitted from the proposed lease form. The Federal Coal Leasing Amendments Act of 1976 specifically requires all Federal coal leases to contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act (42 U.S.C. 1857 *et seq.*). While other minerals leased under the laws listed in Section 1 do not require citation of these two laws as a lease term, lessees of all leasable minerals must still comply with them.

In addition, mineral lessees must comply with the provisions of a number of other laws and their implementing regulations. These include, but are by no means limited to, the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; and the laws governing the handling and disposal of hazardous waste materials on public lands, including the Comprehensive Environmental Response, Conservation, and Liability Act of 1980, 94 Stat. 2767, *et seq.*; and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, *et seq.*

The primary author of this final combined mineral lease is Marcia E. Rohn, Branch of Leasable Minerals, Division of Solid Mineral Leasing, Bureau of Land Management, assisted by the Office of the Solicitor, Department of the Interior, and other Bureau of Land Management staff.

The environmental impacts of leasing solid minerals other than coal were addressed in the environmental assessment and determination of effects of rules proposed for the "Leasing of Minerals Other than Oil and Gas; General" rules at 43 CFR Parts 3500, 3510, and 3520 published in the **Federal Register**, Volume 45, No. 61, pages 13472–13476, Tuesday, March 30, 1982. Based on these documents, the Department determined that the rulemaking did not constitute a major Federal action significantly affecting the quality of the human environment and no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)) was required. Because this lease form results from that proposed rulemaking, the determination of no significant impact holds for this form.

The Department of the Interior also determined that the rulemaking was not a major rule under the Executive Order 12291 and did not have significant effect on a substantial number of small entities. The information collection requirements contained in 43 CFR Part 3500 have been submitted to the Office of Management and Budget for approval as required by the 44 U.S.C. 3507.

The Bureau has reviewed the documents cited above and has determined that they are applicable to this final rulemaking.

We believe that this final combined mineral lease form contains clearer and more concise language than the proposed combined mineral lease form and reflects public concerns to the extent possible.

Dated: February 29, 1984.

Robert F. Burford,

Director.

BILLING CODE 4310-84-M

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

_____ LEASE

PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☐ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and *(Name and Address)*

hereinafter called lessee, is effective *(date)* , for a period of years,

Sodium, Sulphur, Gilsonite, Hardrock –

☐ with preferential right in the lessee to renew for successive periods of years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate –

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Lands Leasing Act, Act of February 25, 1920, as amended, 41 Stat. 437, 30 U.S.C. 181–287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351–359;

☐ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ *(Other)* ; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the deposits and associated and related minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

containing acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate –

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. *(Phosphate leases only.)*

Form 3520–7 (March 1984) (formerly 1520–2, 1820–3, 3520–4, 3520–5, and 3520–6)

PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE – Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

Sulphur, Gilsonite –

☐ 50 cents for the first lease year and each succeeding lease year;

Hardrock –

☐ $1 for the first lease year *(but not less than $20)* and

☐ $1 for each succeeding lease year;

Phosphate –

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and $1 for each and every lease year thereafter;

Potassium, Sodium –

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and $1 for the sixth and each succeeding calendar year; or

Sodium, Sulphur, Gilsonite, and Hardrock Renewal Leases –

☐ $ for each lease year;

(b) RENTAL CREDITS – The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES – Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

(b) MINIMUM ROYALTY –

☐ Beginning with the year of the lease, lessee shall pay lessor in advance an annual minimum royalty payment of $ per acre or fraction thereof. Such minimum royalty payments shall be credited to production royalties for that year.

☐ Beginning with the first full year of this renewal lease, lessee shall pay lessor a minimum annual royalty of $ per acre or fraction thereof. Such minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. BONDS – Lessee shall maintain in the proper office a lease bond in the amount of $, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 4. DILIGENCE –

Sodium, Sulphur, Gilsonite, Hardrock –

☐ Lessee shall exercise reasonable diligence, skill, and care in developing and producing the leased deposits and shall prevent unnecessary damage to, loss of, or waste of leased deposits.

Phosphate, Potassium –

☐ This lease is subject to a minimum production of the leased deposits or the payment of a minimum royalty in lieu thereof as prescribed by regulations, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

The lessor reserves the power to assent to or order the suspension of this lease in accordance with, *inter alia*, Section 39 of the Mineral Leasing Act, 30 U.S.C. 209.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION – At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS – Lessee shall comply at its own expense with all reasonable orders of the Secretary, respecting diligent operations, prevention of waste, and protection of other resources.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans having due regard for the prevention of injury to life, health, or property, and prevention of waste, damage, or degradation to any land, air, water, cultural, biological, visual, and other resources, including mineral deposits and formations of mineral deposits not leased hereunder, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures. Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY – Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

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BILLING CODE 4310-84-C

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec 8. (a) TRANSFERS – This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT – The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. – At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities incidental thereto, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT – If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occuring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST – Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION – Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES – This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151–1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS –

(Section 14 continued on reverse)

Sec. 14. SPECIAL STIPULATIONS – (Cont.)

THE UNITED STATES OF AMERICA

Company or Lessee Name

By

(Signature of Lessee)

(Signing Officer)

(Title)

(Title)

(Date)

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq., 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs, and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and or dispose of the leased deposits.

Realty Action; Public Land Sale

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, I-19692.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of this tract is consistent with section 203(a) of the Federal Land Policy and Management Act of 1976. The land will be offered for sale for no less than the appraised fair market value. This land will be offered for direct sale to Jack W. Klossner based on historic use and ownership of all lands bordering this parcel. Failure of Jack W. Klossner to submit the required amount by May 29, 1984, will result in cancellation of the sale to him. The land will then be offered using competitive procedures on June 26, 1984, at 10 a.m. at the Idaho Falls District BLM Office, 940 Lincoln Rd., Idaho Falls, Idaho. If no sealed bids are received at that time, this sale is cancelled.

Boise Meridian

T. 3 S., R. 41 E.,
Sec. 12, SE¼NW¼.
The above aggregates 40 acres.

The appraisal will be available at the Pocatello Resource Area Headquarters, after April 6, 1984.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

This parcel will be sold and is described, under the Government Land Office Cadastral Survey of 1910.

The lands will be subject to the following reservations and conditions when patented:

1. Right-of-way reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All leasable minerals, including oil and gas (43 U.S.C. 1719).

3. All existing rights as identified on the Master Title Plat on the date of publication of the Notice of Realty Action.

4. Acceptable bids will also constitute an application for non-leasable minerals. The declared high bidder will be required to deposit a $50 non-returnable filing fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The Authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date. The Bureau has determined that the mineral interests being offered have no known mineral value.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this parcel, terms and conditions of the sale, and bidding instructions may be obtained from Wallace Evans, Area Manager, at the Pocatello Resource Area Office, 250 South 4th Ave., Pocatello, ID 83201, or by calling 236-6860 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

James Gabettas,
Acting District Manager.

[FR Doc. 84-6644 Filed 3-8-84; 8:45 am]
BILLING CODE 4310-GG-M

Realty Action; Public Land Sale

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, I-19693.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of this tract is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976. The land will be offered for sale for no less than the appraised fair market value. This parcel will be offered using competitive procedures. Only sealed bids will be accepted.

Boise Meridian

T. 4 S., R. 40 E.,
Sec. 19, lot 2.
The above aggregates 45.30 acres.

The appraisal will be available at the Pocatello Resource Area Headquarters, after April 6, 1984.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

This parcel will be sold and is described, under the Government Land Office Cadastral Survey of 1916.

The lands will be subject to the following reservations and conditions when patented:

1. Right-of-way reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All leasable minerals, including oil and gas (43 U.S.C. 1719).

3. All existing rights as identified on the Master Title Plat on the date of publication of the Notice of Realty Action.

4. The successful bidder agrees that the real estate is taken, subject to the grazing use occurring within grazing allotment No. 4112 by Eastern Idaho Grazing Association. The privilege to graze domestic livestock on the real estate according to the terms and conditions of grazing lease No. 3612 dated April 3, 1981, shall cease on February 28, 1989. The level of use allowed on the real estate under the above grazing lease will not exceed 5 animal unit months annually. The successful bidder is entitled to receive annual grazing fees from Eastern Idaho Grazing Association in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**. If, at any time prior to the expiration date listed above, the lessee sells or leases to another person, this condition of patent is null and void.

5. Acceptable bids will also constitute an application for non-leasable minerals. The declared high bidder will be required to deposit a $50 non-returnable filing fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The Authorized Officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date. The Bureau has

determined that the mineral interests being offered have no known mineral value.

DATES AND ADDRESSES: Bids will be opened on May 22, 1984, at 10 a.m. at the Federal Building, 250 South 4th Ave., Rm. B–43, Pocatello, ID 83201. If no bids are received by this date, additional bids will be accepted until, and opened on, June 26, 1984 at 11 a.m. at the Idaho Falls District BLM, 940 Lincoln Rd., Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this parcel, terms and conditions of the sale, and bidding instructions may be obtained from Wallace Evans, Area Manager, at the Pocatello Resource Area Office, 250 South 4th Ave., Pocatello, ID 83201, or by calling 236–6860 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: March 5, 1984.

James Gabettas,

Acting District Manager.

[FR Doc. 84-6645 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-GG-M

[illegible] Action; Public Land Sale

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, I–19717 and I–20351.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of these tracts are consistent with section 203(a) of the Federal Land Policy and Management Act of 1976. The lands will be offered for sale for no less than the appraised fair market value. These parcels will be offered using competitive procedures. Only sealed bids will be accepted.

Boise Meridian

I–19717

T. 14 S., R. 38 E.,
Sec. 21, NW¼SW¼.

I–20351

T. 14S., R. 38E.,
Sec. 34, SE¼NW¼.

The above aggregates 80 acres.

The appraisal will be available at the Pocatello Resource Area Headquarters, after May 8, 1984.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

These parcels will be sold and are described, under the Government Land Office Cadastral Survey of 1880.

The lands will be subject to the following reservations and conditions when patented:

1. Right-of-way reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All leasable minerals, including oil and gas (43 U.S.C. 1719).

3. All existing rights as identified on the Master Title Plat on the date of publication of the Notice of Realty Action.

4. *I–19717 only:* The successful bidder agrees that the real estate is taken, subject to the grazing use occurring within grazing allotment No. 4307 by Dennis C. Ralphs. The privilege to graze domestic livestock on the real estate according to the terms and conditions of grazing lease No. 3807 dated February 22, 1979, shall cease on February 28, 1989. The level of use allowed on the real estate under the above grazing lease will not exceed 4 animal unit months annually. The successful bidder is entitled to receive annual grazing fees from Dennis C. Ralphs in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.** If, at any time prior to the expiration date listed above, the lessee sells or leases to another person, this condition of patent is null and void.

5. *I–20351 only:* The successful bidder agrees that the real estate is taken, subject to the grazing use occurring within grazing allotment No. 4340 by Franklin Sant. The privilege to graze domestic livestock on the real estate according to the terms and conditions of grazing lease No. 3840 dated February 26, 1979, shall cease on February 28, 1989. The level of use allowed on the real estate under the above grazing lease will not exceed 4 animal units months annually. The successful bidder is entitled to receive annual grazing fees from Franklin Sant in an amount to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.** If, at any time prior to the expiration date listed above, the lessee sells or leases to another person, this condition of patent is null and void.

6. Acceptable bids will also constitute an application for non-leasable minerals. The declared high bidder will be required to deposit a $50 non-returnable filing fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d), immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The Authorized Officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market, or reoffer them for sale at a later date. The Bureau has determined that the mineral interests being offered have no known mineral value.

DATES AND ADDRESSES: Bids will be opened on May 22, 1984, at 1 p.m. at the Franklin County Courthouse, basement meeting room, Preston, Idaho. If no bids are received by this date, additional bids will be accepted until, and opened on, June 26, 1984 at 11 a.m. at the Idaho Falls District BLM, 940 Lincoln Rd., Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this parcel, terms and conditions of the sale, and bidding instructions may be obtained from Wallace Evans, Area Manager, Pocatello Resource Area Office, 250 South 4th Ave., Pocatello, ID 83201, or by calling 236–6860 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: March 5, 1984.

James Gabettas,

Acting District Manager.

[FR Doc. 84-6646 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-GG-M

[F-14889-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance to MTNT, Ltd., notice of which was published in the Federal Register on April 2, 1979, is modified as to pages 7 and 8 of the decision.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision of file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 12, 1984 to file an appeal.

Copies can be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

The decision, notice of which was given April 2, 1979, is final, except as modified.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-6651 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-JA-M

Ukiah District; Deletion From the Knoxville Known Geothermal Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Deletion from the Knoxville Known Geothermal Resource Area.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Department Manual 4.1 H, and Secretarial Orders 3071 and 3087, the following described lands are hereby deleted from the Knoxville Known Geothermal Resources Area, effective February 27, 1984:

(5) California

Knoxville Known Geothermal Resources Area

Mount Diablo Meridian, California

T. 12 N., R. 4 W.,
Sec. 30.
T. 11 N., R. 5 W.,
Sec. 1 through 4;
Sec. 9, NW¼NW¼, S½NW¼, S½NE¼;
Sec. 10, S½NW¼, N½SW¼;
Sec. 11, E½NE¼, NE¼SE¼;
Sec. 15, W½, W½NE¼, NW¼SE¼.
T. 12 N., R. 5 W.,
Sec. 9, E½;
Sec. 10, 11, 15, 22;
Sec. 23, S½;
Sec. 24 through 27;
Sec. 28, SW¼SW¼, E½SW¼, SE¼;
Sec. 29, W½SE¼, SE¼SE¼;
Sec. 32, 33, and 34, (projected);
Sec. 35 and 36.

The defined area described contains 13,383.21 acres more or less.

FOR FURTHER INFORMATION CONTACT:

Bureau of Land Management, Ukiah District Office, 555 Leslie Street, Ukiah, California 95482, (707) 462-3873.

Bureau of Land Management, California State Office, Division of Mineral Resources, 2800 Cottage Way, Sacramento, California 95825, (916) 484-4515.

Dated: March 2, 1984.

Van Manning,

District Manager.

[FR Doc. 84-6652 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Realty Action; Public Land Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I-19686, I-19687, and I-19688, Direct Sale of Public Land in Owyhee County, Idaho.

SUMMARY: The following described land has been examined, and through land use planning and public input, has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 at the appraised value.

Boise Meridian, Idaho

(I-19686)

T. 1 S., R. 3 W.,
Sec. 24, lot 9.
Containing 5 acres.

(I-19687)

T. 5 S., R. 6 W.,
Sec. 26, N½N½NW¼SE¼.
Containing 10 acres.

(I-19688)

T. 6 S., R. 6 W.,
Sec. 23, N½NW¼SE¼SE¼, SW¼NW¼SE¼SE¼, NW¼SW¼SE¼SE¼.
Containing 10 acres.

The land when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.

2. Geothermal resources on I-19686; geothermal resources and oil and gas on I-19687 and I-19688.

3. All valid, existing rights and reservations of record.

Sale of the land in T. 1 S., R. 3 W., Sec. 24, Lot 9, will be subject to temporary continued use of an existing grazing privilege. The land is hereby segregated from all appropriation under the public land laws including the mining laws until sold or October 2, 1984.

These lands are being offered by direct sale to existing users who have placed improvements on the lands and are adjacent landowners. The offer to purchase will include a $50 nonreturnable filing fee for processing the conveyance of mineral interests of no known value.

DATE AND ADDRESS: The sale offering will be held on May 22, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Ave., Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions and other details can be obtained by contacting Blackie Bruegman at the above address, or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: March 5, 1984.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 84-6686 Filed 3-12-84; 8:45 am]

BILLING CODE 4310-GG-M

Idaho; Realty Action; Public Land [illegible]

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I-19983, I-19984 and I-19985, Competitive Sale of Public Land in Owyhee County, Idaho.

SUMMARY: The following described land has been examined, and through land use planning and public input has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

(I-19983)

T. 1 S., R. 3 W.,
Sec. 11, S½W¼, SW¼SE¼.
Containing 120 acres.

(I-19985)

T. 2 N., R. 4 W.,
Sec. 20, NW¼NE¼.

Containing 40 acres.

(I–19984)

T. 2 N., R. 5 W.,
Sec. 21, SE¼NE¼.
Containing 40 acres.

The land when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Geothermal resources on I–19983. Geothermal resources and oil and gas on I–19984 and I–19985.
3. All valid, existing rights and reservations of record.

Sale of the land will be subject to temporary continued use of an existing grazing privilege.

The land is hereby segregated from all appropriations under the public land laws including the mining laws until sold or until October 2, 1984.

Sealed bids must be received in this office no later than May 21, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50 non-returnable filing fee for processing such conveyance, along with one fifth of the full bid price must accompany each bid. We will offer any unsold parcel every Tuesday until sold or until October 2, 1984.

DATE AND ADDRESS: The sale offering will be held on May 22, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Ave., Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions, bidding procedures and other details can be obtained by contacting Blackie Bruegman at the above address, or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: March 5, 1984.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 84–6687 Filed 3–12–84; 8:45 am]

BILLING CODE 4310–GG–M

Idaho; Realty Action; Public Land Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I–19981, Modified Competitive Sale of public land in Owyhee County, Idaho.

SUMMARY: The following described land has been examined, and through land use planning and public input has been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to the sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

T. 6 S., R. 6 W.,
Sec. 11, NE¼SE¼.
Containing 40 acres.

The land when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Geothermal resources.
3. All valid, existing rights and reservations of record.

Sale of the land will be subject to temporary continued use of an existing grazing privilege.

The land is hereby segregated from all appropriation under the public land laws including the mining laws until sold or October 2, 1984.

The land is being offered for sale subject to a preference bidding designation to allow Thomas Gluch to meet the highest bid based on historical use and adjacent landownership. Refusal or failure to meet the highest bid within 30 days of this sale offering shall constitute a waiver of such bidding provisions and the land will be offered to the highest bidder.

Sealed bids must be received in this office no later than May 21, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50 nonreturnable filing fee for processing such conveyance, along with one fifth of the full bid price must accompany each bid. We will offer any unsold parcel every Tuesday until sold or until October 2, 1984.

DATE AND ADDRESS: The sale offering will be held on May 22, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Ave., Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions, bidding procedures, and other details can be obtained by contacting Blackie Bruegman at the above address, or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: March 5, 1984.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 84–6688 Filed 3–12–84; 8:45 am]

BILLING CODE 4310–GG–M

Bureau of Reclamation

New Melones Unit, Central Valley Project, California; Intent To Prepare a Supplemental Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a supplement to the Final Environmental Impact Statement (EIS), FES 80–33, New Melones Lake, Stanislaus River, California, 1972, Corps of Engineers; as supplemented by the report entitled Supplemental Data on Use of Conservation Yield and the Supplement to the Final EIS—Basin Alternatives Water Allocations and Reservoir Operations, both which were prepared by the Bureau of Reclamation. The proposed supplement will provide more recent information regarding the environmental impacts of using water from New Melones Reservoir for municipal and industrial purposes in Tuolumne County. The supplement will specifically address the mining and other use of water in the vicinity of Jamestown.

A meeting to solicit information from all interested public entities and persons to assist in determining the scope of the Supplemental EIS will be held on March 28, 1984, at 7:00 p.m. in Memorial Hall, Second Floor Meeting Room, 9 North Washington Street, Sonora, California. Written comments to supplement or in lieu of oral presentations will be accepted through April 4 at the address below.

The contact person for this supplemental environmental statement will be Rod Hall, Bureau of Reclamation, Attention: MP–150, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4792.

Dated: March 9, 1984.

B. H. Spillers,

Acting Commissioner of Reclamation.

[FR Doc. 84–6825 Filed 3–12–84; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the

National Park Service before March 2, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 28, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Pulaski County

Little Rock, *Gans, Solomon, House*, 1010 W. Third St.

CALIFORNIA

Kern County

Bakersfield, *Tevis Block*, 1712 19th St.

Los Angeles County

Pasadena, *Lukens, Theodore Parker, House*, 267 N. El Molino Ave.

Marin County

San Rafael, *San Rafael Improvement Club*, 1800 Fifth Ave.

Orange County

Laguna Beach, *Mariona (Villa Rockledge)*, 2529 S. Coast Hwy.

GEORGIA

Fulton County

Fairburn vicinity, *Beavers, John F., House*, NW of Fairburn off GA 92

Meriwether County

Odessadale, *Jones-Florence Plantation*, Off GA 109

LOUISIANA

Lincoln Parish

Ruston, *Kidd-Davis House*, 609 N. Vienna St.

Pointe Coupee Parish

Batchelor vicinity, *Lakeside*, LA 419

Rapides Parish

Alexandria, *St. Francis Xavier Cathedral Complex*, 626 Fourth St.

MASSACHUSETTS

Berkshire County

Monterey, *Brewer, Capt. John, House*, Main Rd.

Dukes County

West Tisbury, *Old Mill*, Edgartown-West Tisbury Rd.

Hampden County

Monson, *Norcross, William, House*, 14 Cushman St.

Middlesex County

Melrose, *Larrabee's Brick Block*, 500–504 Main St.

Stoneham, *Almshouse (Stoneham MRA)*, 136 Elm St.

Stoneham, *Beard, Padilla, House (Stoneham MRA)*, 18 Maple St.

Stoneham, *Boston and Maine Railroad Depot (Stoneham MRA)*, 36 Pine St.

Stoneham, *Bottume, John, House (Stoneham MRA)*, 4 Woodland Rd.

Stoneham, *Brown, C. H., Cottage (Stoneham MRA)*, 34 Wright St.

Stoneham, *Bryant, William, Octagon House (Stoneham MRA)*, Spring and Washington Sts.

Stoneham, *Buck, Charles, House (Stoneham MRA)*, 68 Pleasant St.

Stoneham, *Buswell, Clara, House (Stoneham MRA)*, 481 Main St.

Stoneham, *Chamberlain, Samuel, House (Stoneham MRA)*, 3 Winthrop St.

Stoneham, *Cogan, Bernard, House (Stoneham MRA)*, 10 Flint St.

Stoneham, *Cogan, James, House (Stoneham MRA)*, 48 Elm St.

Stoneham, *Colonial Beacon Gas Station (Stoneham MRA)*, 474 Main St.

Stoneham, *Cowdrey, George, House (Stoneham MRA)*, 42 High St.

Stoneham, *Daniels, Blake, Cottage (Stoneham MRA)*, 111–113 Elm St.

Stoneham, *Dean, Silas, House (Stoneham MRA)*, 8 Pine St.

Stoneham, *Dow Block (Stoneham MRA)*, Central Square

Stoneham, *Durgin, E. A., House (Stoneham MRA)*, 113 Summer St.

Stoneham, *Farrier, Amasa, Boardinghouse (Stoneham MRA)*, 280 Main St.

Stoneham, *Farrier, Amasa, House (Stoneham MRA)*, 55 Central St.

Stoneham, *First Baptist Church (Stoneham MRA)*, 461 Main St.

Stoneham, *First Congregational Church (Stoneham MRA)*, Main and Church Sts.

Stoneham, *First Unitarian Church (Stoneham MRA)*, Central and Common Sts.

Stoneham, *Foley, Michael, Cottage (Stoneham MRA)*, 14 Emerson St.

Stoneham, *Foster, Walter K., House (Stoneham MRA)*, 57 Central St.

Stoneham, *Fuller, Enoch, House (Stoneham MRA)*, 72 Pine St.

Stoneham, *Fuller, William Griffin, House (Stoneham MRA)*, 32 Franklin St.

Stoneham, *Gill, Charles, House (Stoneham MRA)*, 76 Pleasant St.

Stoneham, *Gilmore, Onslow, House (Stoneham MRA)*, 477 Main St.

Stoneham, *Green, Jonathan, House (Stoneham MRA)*, 63 Perkins St.

Stoneham, *Hawkins, Lorenzo D., House (Stoneham MRA)*, 1 Cedar St.

Stoneham, *Hibbard, Benjamin, House (Stoneham MRA)*, 5–7 Gerry St.

Stoneham, *Hill, Sidney A., House (Stoneham MRA)*, 31 Chestnut St.

Stoneham, *House at 107 William Street (Stoneham MRA)*, 107 William St.

Stoneham, *House at 114 Marble Street (Stoneham MRA)*, 114 Marble St.

Stoneham, *House at 19 Tremont St. (Stoneham MRA)*, 19 Tremont St.

Stoneham, *House at 269 Green Street (Stoneham MRA)*, 269 Green St.

Stoneham, *House at 391 Williams Street (Stoneham MRA)*, 391 Williams St.

Stoneham, *House at 6 S. Marble St. (Stoneham MRA)*, 6 S. Marble St.

Stoneham, *Jenkins, Franklin B., House (Stoneham MRA)*, 35 Chestnut St.

Stoneham, *Jenkins, Franklin B., House (Stoneham MRA)*, 2 Middle St.

Stoneham, *Jones, John, House (Stoneham MRA)*, 1 Winthrop St.

Stoneham, *Jones, Thomas W., House (Stoneham MRA)*, 34 Warren St.

Stoneham, *Keene, Walter, House (Stoneham MRA)*, 28 High St.

Stoneham, *Kenney, David, House (Stoneham MRA)*, 67 Summer St.

Stoneham, *Lamson, Newton, House (Stoneham MRA)*, 33 Chestnut St.

Stoneham, *Locke-Baldwin-Kinsley House (Stoneham MRA)*, 45 Green St.

Stoneham, *Lyon, T. U., House (Stoneham MRA)*, 9 Warren St.

Stoneham, *Metropolitan District Commission Pumping House (Stoneham MRA)*, Woodland Rd.

Stoneham, *Millard-Souther-Green House (Stoneham MRA)*, 218 Green St.

Stoneham, *Oddfellows Building (Stoneham MRA)*, Central Square

Stoneham, *Old Burying Ground (Stoneham MRA)*, Pleasant and William Sts.

Stoneham, *Shoe Shop-Doucette Ten Footer (Stoneham MRA)*, 36 William St.

Stoneham, *South School (Stoneham MRA)*, 9–11 Gerry St.

Stoneham, *Steele, John, House (Stoneham MRA)*, 2–4 Montvale St.

Stoneham, *Stoneham Firestation (Stoneham MRA)*, Central and Emerson Sts.

Stoneham, *Stoneham Public Library (Stoneham MRA)*, Main and Maple Sts.

Stoneham, *Tay, Jesse, House (Stoneham MRA)*, 51 Elm St.

Stoneham, *Turnbull, R. P., House (Stoneham MRA)*, 6 Pine St.

Stoneham, *Wiley, Caleb, House (Stoneham MRA)*, 125 North St.

Stoneham, *Williams, Micah, House (Stoneham MRA)*, 342 William St.

Stoneham, *Williams-Linscott House (Stoneham MRA)*, 357 Williams St.

Stoneham, *Wood, Samuel, House (Stoneham MRA)*, 34 Chesnut St.

Stoneham, *Wright, Elisha, Homestead (Stoneham MRA)*, 170 Franklin St.

Suffolk County

Boston, *Moreland Street Historic District*, Roughly bounded by Kearsarge, Blue Hill Aves., Warren, Waverly, and Winthrop Sts.

MINNESOTA

Carlton County

Cloquet vicinity, *Sts Joseph and Mary Church*, Mission Rd.

Ramsey County

St. Paul, *Vienna and Earl Apartment Buildings*, 682–688 Holly Ave.

NEW JERSEY

Monroe County

Plainfield, *North Avenue Commercial Historic District*, Park, Noth, and Watchung Aves.

NEW YORK

Union County

Rochester, *Vanderbeck House*, 1295 Lake Ave.

Ontario County

Geneva vicinity, *Nester House*, 1001 Lochland Rd.

OHIO

Cuyahoga County

Bolton, Chester and Frances, House.
Cleveland Heights, *Temple on the Heights*, 3130 Mayfield Rd.
Cleveland, *Jennings Apartments*, 2711 W. 14th St.

Portage County

Ravenna, *Riddle Block No. 11 (Riddle Commercial Buildings of Ravenna TR)*, 133–137 E. Main St.
Ravenna, *Riddle Block No. 2 (Riddle Commercial Buildings of Ravenna TR)*, 112–116 E. Main St.
Ravenna, *Riddle Block No. 5 (Riddle Commercial Buildings of Ravenna TR)*, 141–145 E. Main St.
Ravenna, *Riddle Block No. 9 (Riddle Commercial Buildings of Ravenna TR)*, 200–206 W. Main St.

OKLAHOMA

Tulsa County

Tulsa, *Oklahoma Natural Gas Company Building (Zig-Zag Art Deco Style Public Utility Buildings TR)*, 624 S. Boston Ave.
Tulsa, *Public Service of Oklahoma Building (Zig-Zag Art Deco Style Public Utility Buildings TR)*, 600 S. Main St.
Tulsa, *Southwestern Bell Main Dial Building (Zig-Zag Art Deco Style Public Utility Buildings TR)*, 424 S. Detroit Ave.

TENNESSEE

Davidson County

Nashville, *Buchanan, James, House*, 2910 Elm Hill Pike
Nashville, *Overbrook*, 4218 Harding Rd.

WISCONSIN

Outagamie County

Kaukauna, *Black, Merrit, House (Kaukauna MRA)*, 104 River Rd.
Kaukauna, *Brokaw, Norman, House (Kaukauna MRA)*, 714 Grignon St.
Kaukauna, *Fargo's Furniture Store (Kaukauna MRA)*, 172–176 W. Wisconsin Ave.
Kaukauna, *Free Public Library of Kaukauna (Kaukauna MRA)*, 111 Main Ave.
Kaukauna, *Holy Cross Church (Kaukauna MRA)*, 309 Desnoyer St.
Kaukauna, *Klein Dairy Farmhouse (Kaukauna MRA)*, 1018 Sullivan Ave.
Kaukauna, *Kuehn Blacksmith Shop-Hardware Store (Kaukauna MRA)*, 148–152 E. Second St.
Kaukauna, *Lindauer and Rupert Block (Kaukauna MRA)*, 137–141 E. Second St.
Kaukauna, *Martens, Julius J., Company Building (Kaukauna MRA)*, 124–128 E. Third St.
Kaukauna, *Meade, Capt. Matthew J., House (Kaukauna MRA)*, 309 Division St.
Kaukauna, *Nicolet Public School (Kaukauna MRA)*, 109 E. Eighth St.
Kaukauna, *St. Andrews, Frank, House (Kaukauna MRA)*, 320 Dixon St.
Kaukauna, *St. Mary's Catholic Church (Kaukauna MRA)*, 119 W. Seventh St.
Kaukauna, *Stribley, Charles W., House (Kaukauna MRA)*, 705 W. Wisconsin Ave.

[FR Doc. 84-6678 Filed 3-2-84; 8:45 am]
BILLING CODE 4310-70-M

Land Protection Plans; Availability and Opportunity for Public Participation

AGENCY: National Park Service, Interior.

ACTION: Notice of availability and opportunity for public participation.

SUMMARY: The National Park Service is providing further notice that land protection plans have been prepared for certain units of the National Park System and that planning is underway for additional units. The public is invited to participate in the planning process.

DATE: This notice provides information about plans as of January 31, 1984.

ADDRESS: Correspondence concerning this notice should be addressed to the Acting Chief, Division of Park Planning and Special Studies, National Park Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Warren Brown, Division of Park Planning and Special Studies, National Park Service (763), Washington, D.C. 20240, (202) 343–9377.

SUPPLEMENTARY INFORMATION: On May 11, 1983, the National Park Service published a final interpretive rule (48 FR 21121) for the preparation of land protection plans. The public was invited to participate in the planning process for the 151 areas listed in Appendix A of that notice.

Plans for the areas listed in the May 11, 1983 notice (48 FR 21127–21130) are, or will soon be, available for public inspection. To obtain a copy of a plan for any individual area, contact the Superintendent of the Regional Director at the addresses provided for each unit.

Additional plans have been scheduled for preparation by September 30, 1985. Individuals and organizations interested in being involved in the planning process for any specific unit should contact the Superintendent or the Regional Director at the addresses listed in Appendix A of this notice.

Russell Dickenson,

Director.

Appendix A

Areas with land protection plans scheduled for completion between September 30, 1983 and September 30, 1985.

Alaska Region: Roger Contor, Regional Director, National Park Service, 540 West 5th Avenue, Room 202, Anchorage, Alaska 99501.

Aniakchak National Preserve, c/o Katmai National Park, P.O. Box 7, King Salmon, AK 99614.

Bering Land Bridge National Preserve, P.O. Box 220, Nome, AK 99762.

Cape Krusenstern National Monument, P.O. Box 287, Kotzebue, AK 99752.

Denali National Park, P.O. Box 9, McKinley Park, AK 99755.

Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, AK 99707.

Glacier Bay National Preserve and Park, Gustavus, AK 99826.

Katmai National Preserve and Park, P.O. Box 7, King Salmon, AK 99613.

Kenai Fjords National Park, P.O. Box 1727, Seward, AK 99664.

Klondike Gold Rush National Historical Park, P.O. Box 517, Skagway, AK 99840.

Kobuk Valley National Park, P.O. Box 287, Kotzbue, AK 99752.

Lake Clark National Park, 701 C Street, Box 61, Anchorage, AK 99513.

Sitka National Historical Park, P.O. Box 738, Sitka, AK 99835.

Wrangell-St. Elias National Preserve and Park, P.O. Box 29, Glennallen, AK 99588.

Yukon Charley Rivers National Park, P.O. Box 64, Eagle, AK 99738.

Mid-Atlantic Region: James W. Coleman, Jr., Regional Director, National Park Service, 143 Third Street, Philadelphia, Pennsylvania 19106.

Assateague Island National Seashore, Route 2, Box 294, Berlin, MD 21811.

Delaware Water Gap National Recreation Area, Bushkill, PA 18324.

Friendship Hill National Historic Site c/o Fort Necessity National Battlefield, The National Pike, Farmington, PA 15437.

Fredericksburg-Spotsylvania National Military Park, P.O. Box 679, Fredericksburg, VA 22404.

Gettysburg National Military Park, Gettysburg, PA 17325.

Richmond National Battlefield Park, 3215 East Broad Street, Richmond, VA 23223.

Shenandoah National Park, Luray, VA 22835.

Thomas Stone National Historic Site, c/o George Washington Birthplace NM, Washington's Birthplace, VA 22575.

Upper Delaware Scenic and Recreation River, P.O. Box C, Narrowsburg, NY 12764.

Mid-West Region: Charles Odegaard, Regional Director, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, (402–221–3431).

Agate Fossil Beds National Monument c/o Scotts Bluff National Monument, P.O. Box 427, Gering, NE 69341.

Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, OH 44264.

Homestead National Monument, RFD 3, Beatrice, NE 68310.

Lincoln Boyhood Home National Historic Site, 526 South 7th Street, Springfield, IL 62703.

Mound City Group National Monument, 16062 State Rt. 104, Chillicothe, OH 45601.

Ozark National Scenic Riverways, P.O. Box 490, Van Buren, MO 63965.

Pictured Rocks National Lakeshore, P.O. Box 40, Munising, MI 49862.

Saint Croix National Scenic Riverway, P.O. Box 708, Saint Croix Falls, WI 54024.

Scotts Bluff National Monument, P.O. Box 427, Gering, NE 69341.

National Capital Region: Manus J. Fish, Jr., Regional Director, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242, (202–426–5720).

Harpers Ferry National Historical Park, P.O. Box 65, Harpers Ferry, WVA 25425.

Prince William Forest Park, P.O. Box 208, Triangle, VA 22172.

North Altantic Region: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, Massachusetts 02119.

Acadia National Park, RFD 1, Box 1, Bar Harbor, ME 04609.

Boston African-American National Historical Site c/o Boston National Historical Park, Charleston Navy Yard, Boston, MA 02129.

Cape Cod National Seashore, South Wellflett, MA 02663.

Gateway National Recreation Area, Floyd Bennett Field, Building 69, Brooklyn, NY 11234.

Lowell National Historical Park, 171 Merrimack Street, P.O. Box 1098, Lowell, MA 01853.

Minute Man National Historical Park, P.O. Box 160, Concord, MA 01742.

Women's Rights National Historical Park c/o North Altantic Regional Office, National Park Service, 15 State Street, Boston, MA 02109.

Pacific Northwest Region: Daniel J. Tobin, Jr., Regional Director, National Park Service, 2001 6th Avenue, Seattle, Washington 98121, (206–442–5565).

Lake Chelan National Recreation Area, P.O. Box 7, Stehekin, WA 98852.

Ross Lake National Recreation Area c/o North Cascades National Park, 800 State Street, Sedro Woolley, WA 98284.

Rocky Mountain Region: L. Lorraine Mintzmyer, Regional Director, National Park Service, P.O. Box 25287, Denver, Colordao 80225, (303–234–2500).

Arches National Park c/o Cayonlands National Park, 446 South Main Street, Moab, UT 84532.

Badlands National Park, P.O. Box 6, Interior, SD 57750.

Bent's Old Fort National Historical Site, 35110 Highway 194 East, La Junta, CO 81050.

Bighorn Canyon National Recreation Area, P.O. Box 458, Fort Smith, MT 59035.

Black Canyon of the Gunnison National Monument, P.O. Box 1648, Montrose, CO 81401.

Bryce Canyon National Park, Bryce Canyon, UT 84717.

Dinosaur National Monument, P.O. Box 210, Dinosaur, CO 81610.

Fort Laramie National Historical Site, Fort Laramie, WY 82212.

Fort Union Trading Post National Historical Site, Bjford Route, Williston, ND 58801.

Glacier National Park, West Glacier, MT 59936.

Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040.

Grant-Kohrs Ranch National Historical Site, P.O. Box 790, Deer Lodge, MT 59722.

Great Sand Dunes National Monument, Mosca, CO 81146.

Mesa Verde National Park, Mesa Verde National Park, CO 81330.

Theodore Roosevelt National Park, Medora, ND 58645.

Wind Cave National Park, Hot Springs, SD 57747.

Yellowstone National Park, Yellowstone National Park, WY 82190.

Zion National Park, Springdale, UT 84767.

Southeast Region: Robert M. Baker, Regional Director National Park Service, Richard B. Russell Federal Building & U.S. Courthouse, 75 Spring Street, SW., Altanta, Georgia 30303, (404–221–5185).

Andersonville National Historical Site, Andersonville, GA 31711.

Big Cypress National Preserve, Star Route Box 110, Ochopee, FL 33943.

Blue Ridge Parkway, 700 Northwestern Bank Building, Asheville, NC 28801.

Cape Lookout National Seashore, P.O. Box 690, Beaufort, NC 28516.

Canaveral National Seashore, P.O. Box 6447, Titusville, FL 32782–6447.

Chattahoochee River National Recreational Area, 1905 Powers Ferry Road, Suite 150, Marietta, GA 30067.

Cowpens National Battlefield, P.O. Box 308, SC Highways 110 and 11, Chesnee, SC 29323.

Cumberland Gap National Historical Park, P.O. Box 840, Middlesboro, KY 40965.

Cumberland Island National Seashore, P.O. Box 806, Saint Marys, GA 31558.

Everglades National Park, P.O. Box 279, Homestead, FL 33030.

Fort Donelson National Military Park, P.O. Box F, Dover, TN 37058.

Fort Pulaski National Monument, P.O. Box 98, Tybee Island, GA 31328.

Fort Sumter National Monument, 1214 Middle Street, Sullivan's Island, SC 29482.

Kennesaw Mountain National Battlefield Park, P.O. Box 1167, Marietta, GA 30061.

Mammoth Cave National Park, Mammoth Cave, KY 42259.

Obed Wild and Scenic River, P.O. Drawer 630, Oneida, TN 37841.

San Juan National Historic Site, P.O. Box 712, Old San Juan, PR 00902.

Shiloh National Military Park, Shiloh, TN 38376.

Vicksburg National Military Park, P.O. Box 349, Vicksburg, MS 39180.

Virgin Island National Park, P.O. Box 7789, Charlotte Amalie, St. Thomas, VI 00801.

Southwest Region: Robert I. Kerr, Regional Director, National Park Service, Old Santa Fe Trail, P.O. Box 728, Santa Fe, New Mexico 87501, (505–988–6388).

Alibates Flint Quarries National Monument, c/o Lake Meredith Recreation Area, P.O. Box 1438, Fritch, TX 79036.

Amistad National Recreation Area, Star Route 2, Box 5–P, Highway 90 West, Del Rio, TX 78840.

Bandelier National Monument, Los Alamos, NM 87544.

Big Bend National Park, Big Bend National Park, TX 79834.

Canyon de Chelly National Monument, P.O. Box 588, Chinle, AZ 86503.

Carlsbad Caverns National Park, 3225 National Parks Highway, Carlsbad, NM 88220.

Chaco Culture National Historical Park, Star Route 4, Box 6500, Bloomfield, NM 87413.

Chickasaw National Recreation Area, P.O. Box 201, Sulphur, OK 73086.

El Morro National Monument, Ramah, NM 87321.

Fort Smith National Historic Site, P.O. Box 1406, Fort Smith, AR 72902.

Guadalupe Mountains National Park c/o Carlsbad Caverns National Park, 3225 National Parks Highway, Carlsbad, NM 88220.

Hot Springs National Park, P.O. Box 1860, Hot Springs, AR 71902.

Lyndon B. Johnson National Historical Park, P.O. Box 329, Johnson City, TX 78636.

Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi TX 78418.

Palo Alto Battlefield c/o Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi TX 78418.

Pea Ridge National Military Park, Pea Ridge, AR 72751.

White Sands National Monument, P.O. Box 458, Alamogordo, NM 88310.

Western Region: Howard Chapman, Regional Director, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102, (415–566–4196).

Chiricahua National Monument, Dos Cabezas Route Box 6500, Willcox, AZ 85643.

Coronado National Memorial, Rural Route 1, Box 126, Hereford, AZ 85615.

Death Valley National Monument, Death Valley, CA 92328.

Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023.

Haleakala National Park, P.O. Box 369, Makawao, Maui, HI 96768.

Hawaii Volcanoes National Park, Hawaii Volcanoes National Park, HI 96718.

Joshua Tree National Monument, 74485 National Monument Drive, Twentynine Palms, CA 92277.

Kalaupapa National Historical Park c/o Pacific Area Director, 300 Ala Moana Blvd., P.O. Box 50165, Honolulu, HI 96850.

Kings Canyon National Park c/o Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271.

Lassen Volcanic National Park, P.O. Box 100, Mineral, CA 96063–0100.

Montezuma Castle National Monument, P.O. Box 219, Camp Verde, AZ 86322.

Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321.

Redwood National Park, 1111 Second Street, Crescent City, CA 95531.

Saguaro National Monument, Route 8, Box 695, Tucson, AZ 85730.

Tumacacori National Monument, P.O. Box 67, Tumacacori, AZ 85640.

Tuzigoot National Monument c/o Montezuma Castle NM, P.O. Box 219, Camp Verde, AZ 86322.

Walnut Canyon National Monument, Route 1, Box 25, Flagstaff, AZ 86001.

Whiskeytown National Recreation Area, P.O. Box 188, Whiskeytown, CA 96095.

Yosemite National Park, P.O. Box 577, Yosemite National Park, CA 95389.

[FR Doc. 84–6679 Filed 3–12–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than March 23, 1984. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Ms. Melita E. Yearwood, (202) 632–3378, IRM/MMP, Room 708B, SA–12, Washington, D.C. 20523.

Date Submitted: March 2, 1984
Submitting Agency: Agency for International Development
OMB Number: None
Form Number: NA
Type of Submission: New
Title: AID Regulation 10, Donation of Dairy Products to Assist Needy Persons Overseas
Purpose: AID will act as the agent for the USDA/Commodity Credit Corporation (CCC), having the responsibility for the administration and implementation of the donation of surplus dairy products authorized under Section 416 of the Agricultural Act of 1949, as amended.
Reviewer: Francine Picoult (202) 395–7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: March 2, 1984.

Fred D. Allen

Acting Chief, Mandated Management Programs.

[FR Doc. 85–6682 Filed 3–12–84; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–52 (Sub-25)]

The Atchison, Topeka and Santa Fe Railway Company; Abandonment; In Dickinson, Ottawa and Lincoln Counties, KS; Findings

The Commission has found that the public convenience and necessity permit the abandonment by the Atchison, Topeka and Santa Fe Railway Company of a portion of railroad extending between milepost 0.02 at Manchester and milepost 43.40 at the end of the line at Barnard, a distance of 43.38 miles in Dickinson, Ottawa and Lincoln Counties, KS. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–6664 Filed 3–12–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30417]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Trackage Rights Exemption; Exemption

On February 15, 1984, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (MILW) filed a notice of exemption for trackage rights over a line of track of the Burlington Northern Railroad Company (BN) betwen Duluth, MN, and Superior, WI.

MILW proposes to operate over BN's Grassy Point Bridge and other BN trackage in Duluth, and simultaneously discontinue its trackage rights over BN's St. Louis Bay Bridges, which are duplicative of existing facilities and scheduled for demolition. MILW states that its trackage rights agreement is expected to be consummated as of March 1, 1984, and is intended to facilitate BN's elimination of its outmoded St. Louis Bay Bridges. MILW supports BN's belief that elimination of the bridges will permit all of the railroads now using them to realize operating economies.

This joint project involves the relocation of a line of railroad which does not disrupt service to shippers and is specifically exempted from the

necessity of prior review and approval under 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, I.C.C. 605 (1978), as modified by *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 5, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James J. Bayne,

Acting Secretary.

[FR Doc. 84-6666 Filed 3-12-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30422]

Seaboard System Railroad, Inc.; Merger; Columbia, Newberry and Laurens Railroad Co.; Exemption

Decided: March 6, 1984.

On February 23, 1984, Seaboard System Railroad, Inc. (Seaboard) and its wholly-owned subsidiary, Columbia, Newberry and Laurens Railroad Company (CN&L), filed a notice of exemption for the merger of CN&L into Seaboard. The notice is filed as a class exemption pursuant to 49 CFR 1180.2(d)(3).

Under the merger plan, scheduled for consummation on April 30, 1984, CN&L will merge into its parent, Seaboard, and all the outstanding capital stock of CN&L will be canceled. Consummation of the merger will simplify Seaboard's corporate structure and allow Seaboard to achieve various efficiencies and economies such as the elimination of separate accounting records, board of directors, and minute books. Since CN&L is operated as an integral part of Seaboard, the merger will not result in any changes in the transportation services offered or the operations performed along CN&L lines.

This is a transaction within a corporate family and will not result in any changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, it is an exempt transaction pursuant to 49 CFR 1180.2(d)(3).

As a condition to the use of this exemption, any employees affected by this transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-6665 Filed 3-12-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30423]

Union Pacific Railroad Co.; Acquisition; Missouri Pacific Railroad Co.; Exemption

Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company (MP), wholly-owned subsidiaries of Pacific Rail Systems, Inc., have filed a notice of exemption for the conveyance of MP's Louisville Subdivision to UP. The Y-shaped line of railroad extends from the switching limits at milepost 482.6 to the end of main line at milepost 494.6, and from Louisville Junction at milepost 488.2 to milepost 484.5 at South Omaha, in Douglas County, NE. Property to be conveyed includes main track side track, right of way, other land, and all facilities, at Omaha.

UP will operate over the track after the transaction. Conveyance will result in operating economies for both UP and MP, and will result more effective management and operation of the rail line.

This a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employee affected by the conveyance shall be protected pursuant to *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: March 7, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings:

James H. Bayne,

Acting Secretary.

[FR Doc. 84-6667 Filed 3-12-84; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: New
Bureau/Office: Office of Transportation Analysis
Title of Form: Household Goods Carrier & Moving Service Study
OMB Form No.: None
Agency Form No.: None
Frequency: One-time Study
Respondents: Class I, II, & III, Household Goods Carriers and Shippers
No. of Respondents: 2,172
Total Burden Hrs.: 1,086

James H. Bayne,

Acting Secretary.

[FR Doc. 84-6663 Filed 3-13-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

State of Minnesota Department of Economic Security; Hearing

Correction

In FR Doc. 84-6007 beginning on page 8309 in the issue of Tuesday, March 6, 1984, make the following corrections.

1. On page 8310, first column, sixth line of "Issue 2", the reference to "268.08" should have read "268.06".

2. On the same page, third column, fourth line of paragraph 3, "or the public" should have read "of the public".

3. On page 8311, first column, fourth line of paragraph 7(c), "the closed" should have read "be closed".

BILLING CODE 1505-01-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under

review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment Standards Administration
Survey of Occupational Wages and Employee Benefits in the Construction Industry, Cobb County, Georgia
Recordkeeping
Businesses or other for-profit
750 respondents, 3,000 hours, one survey

To make wage determinations under the Davis-Bacon Act, this Agency conducts consus surveys in localities throughout the U.S. Data from this census survey will be used to test the validity of conducting furture sample surveys in the construction industry. Test results are expected to lessen resources and respondent burdens. The Bureau of Labor Statistics will conduct the survey.

Occupational Safety and Health Administration
Grantee Quarterly Progress Report
OSHA 275
Quarterly
Non-profit institutions
520 responses; 6,240 hours; 1 form

The Grantee Quarterly Progress Report will be used to collect information concerning activities conducted by grantees under the OSHA New Directions Program. The information will be used to monitor the uses to which Federal grant funds are put, and to provide OSHA with information it needs to manage the program.

Extension

Bureau of Labor Statistics
Annual OSHA Survey and Prenotification of Recordkeeping Requirements 1220–0045, OSHA No. 200S and 200 PRE
Annually
State and local governments, farms, businesses, non-profit institutions and small businesses or organizations
280,000 responses; ¼ hour, 1 form

Section 8(c) of the Occupational Safety and Health Act (29 U.S.C. 657,673) legislates the Secretary of Labor to require employers to maintain records of occupational injuries and illnesses and to submit periodic reports. Uses of the data: indicates industries needing safety and health attention; guidance in administering Federal and State program; and used by labor and management.

Employment Standards Administration
Application for Federal Certificate of Age—29 CFR Part 570.5(b)(1)
WH–14
Annually
Business or other for-profit
75,000 respondents, 12,500 hours, 1 form

Section 3(1) of the Fair Labor Standards Act sets certificate provision to certify that minor employees are above oppressive child labor age. Usually state certificates qualify under this provision, however, Federal certificates of age are issued in states lacking appropriate certificate provisions.

Reinstatement

Bureau of Labor Statistics
Supplementary Data System
BLS 99
Biannually
State or local governments
30 responses, 324,600 total burden hours, no forms

Provides detailed information on characteristics of work-related injuries and illnesses and the accidents or exposures which produce them. Needed by the Occupational Safety and Health Administration in program direction, compliance, and standards setting. Thirty States voluntarily provide information from State worker's compensation records.

Existing Collection in Use Without an OMB Control Number

Employment Standards Administration
Continuance of Compensation Form CA–12
Individual or households
14,596 respondents, 1,217 hours, one form

Claims for Continuance of Compensation provide information concerning the continued entitlement of beneficiaries in death cases under the provisions of 5 U.S.C. 8101 et seq.

Dependents Claim Compensation Forms CA–5, CA–5a, CA–1615, CA–1617, CA–1085, CA–1074, CA–1031, CA–1072, CA–1093
On occasion, Semi-annually (CA–1617)
Individuals or households
3,765 respondents, 2,093 hours, 9 forms

Reports are claims for compensation by survivors due to the death of a Federal employee, and supplemental reports concerning dependency status in various types of cases. All forms are required for the determination of eligibility and/or the rate of compensation under the Federal Employees Compensation Act.

Signed at Washington, D.C., this 8th day of March 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–6721 Filed 3–12–84; 8:45 am]
BILLING CODE 4510–24–M, 4510–27–M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 27, 1984–March 2, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for

adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,969; West Virginia Malleable Iron Co., Point Pleasant, WV

TA-W-14,921; Carolina Pacific Knitwear, Inc., Statesville, NC

TA-W-14,768; Vernitron Corp., Vernitron Medical Products, Manasquan, NJ

TA-W-14,934; Sandusky Foundry and Machine Co., Inc., Sandusky, OH

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,064; Caterpillar Tractor Co., Milwaukee, WI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,927; Dressers Industry Corp., Industrial Tool Div., Springfield, OH

Aggregate U.S. imports of boiler tube brushes are negligible.

TA-W-14,976; Falls Yarn Mills, Inc., Woonsocket, RI

Aggregate U.S. imports of yarns are negligible.

TA-W-15,047; Electric Manufacturing and Repair, Inc., Bethel Park, PA

The investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

I hereby certify that the aforementioned determinations were issued during the period February 27, 1984–March 2, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 6, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-6717 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,099]

Outboard Marine Corp., Galesburg, Illinois; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 7, 1983, in response to a worker petition received on November 2, 1983, which was filed by the Office and Professional Employees International Union and the Industrial Workers of Galesburg on behalf of workers and former workers at the Outboard Marine Corporation in Galesburg, Illinois. The workers produce outboard motor parts and lawn mower parts.

The petitioners requested in a letter that the petition for workers producing remote control assemblies, flywheels and ring gears be withdrawn since these workers are already covered under a previous certification. The investigation revealed that these workers would fall within the scope of the Department's earlier certification TA-W-13, 164 for workers at the Outboard Marine Corporation, Galesburg, Illinois, producing electrical and fuel system components for outboards and lawn mowers. That certification will expire on October 29, 1984.

Signed at Washington, D.C., this 5th day of March 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-6718 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,091]

Fox Shoe Manufacturing Corp., New York, New York; Termination of Investigation

Pursuant to Section 221 of the Trade of 1974, an investigation was initiated on October 31, 1983, in response to a worker petition received on October 28, 1983, which was filed (by) the Amalgamated Clothing and Textile Workers Union on behalf of workers and Fox Shoe Manufacturing Corporation New York, New York. An active certification covering the petitioning group of workers remains in effect (TA-W-12,572). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 5th day of March 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-6719 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,577]

Knickerbocker Toy Co., Middlesex, New Jersey, Edison, New Jersey; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

According to section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a certifiction of eligibility to apply for worker adjustment assistance on December 30, 1983 to former workers of the Knickerbocker Toy Company, Middlesex, New Jersey. The Notice of Certification was published in the **Federal Register** on January 10, 1984 (49 FR 1298). The certification was corrected on January 12, 1984 to include the Edison, New Jersey location of Knickerbocker Toy Company. The corrected Notice was published in the **Federal Register** on January 20, 1984 (49 FR 2560).

Based on a request from the Amalgamated, Industrial and Toy & Novelty Workers of America for a change in the May 1, 1983 termination date established in the certification, findings in the investigation were reviewed to determine if there was sufficient information and data to support a change in the termination date. Upon request, Warner Communications, the parent company, provided additional information which showed that several workers worked a few weeks beyond the May 1, 1983 termination date closing down the operation.

The amended certification for TA-W-14,577 is hereby issued as follows:

All workers of Knickerbocker Toy Company, Middlesex and Edison, New Jersey who became totally or partially separated from employment on or after December 1, 1982 and before June 1, 1983 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of March 1984.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS

[FR Doc. 84-6720 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-139-C]

B and B Coal Co., Petition for Modification of Application of Mandatory Safety Standard

B and B Coal Company, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Rock Ridge Slope (I.D. No. 36-07175) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The mine is wet and virtually dust free. The upper area of the mine was deep and strip mined, leaving ventilation to the surace by means of abandoned slopes, cracks, fissures and strip pits. This creates a natural draft that would sweep noxious fumes to the surface away from the miners.

3. Petitioner states that the mine geology, undulation, thin coal and varying pitches make it impossible to wear the device while working. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. In addition, the wet conditions of the mine make it difficult to locate a suitable dry storage location for the self-rescuers.

4. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescurers.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or befor April 12, 1984. Copies of the petition are available for inspection at that address.

Dated: March 1, 1984.

Partricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-6716 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs Office

[Prohibited Transaction Exemption 84-14; Exemption Application No. D-4850]

Class Exemption for Plan Asset Transaction Determined by Independent Qualified Professional Asset Managers

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains a final exemption from certain prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The exemption permits various parties who are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by persons, defined for purposes of this exemption as "qualified professional asset managers" (QPAMs), which are independent of the parties in interest and which meet specified financial standards. Additional exemptive relief is provided for employers to furnish limited amounts of goods and services in the ordinary course of business. Limited relief is also provided for leases of office or commercial space between managed funds and QPAMs or contributing employers. The exemption will affect participants and beneficiaries of employee benefit plans, the sponsoring employers of such plans, QPAMs and other persons engaging in the described transactions.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Ivan L. Strasfeld, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, telephone (202) 523-7901; or Ms. Charmaine B. Gordon, Plan Benefits Security Division, Office of the Solicitor, telephone (202) 523-9593, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-4526, Washington, D.C. 20216. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On December 21, 1982, the Department of Labor (the Department) published in the Federal Register (47 FR 56945) a proposed class exemption from certain of the restrictions of section 406 of ERISA, and from certain taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code.[1] The Department proposed the class exemption on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), specifically section 3.01 of that Procedure. The Department received over 50 public comments with regard to the proposed class exemption. In addition, a public hearing was held on March 10, 1983. Upon consideration of all the comments received and testimony offered at the public hearing, the Department has determined to grant the proposed class exemption, subject to certain modifications. These modifications and the major comments are discussed below.

Discussion of the Comments

A. General Exemption

1. Power of Appointment (Section I(a)). The proposed general exemption, set forth in Part I, permitted an investment fund managed by a QPAM to engage in all transactions described in ERISA section 406(a)(1)(A) through (D) with virtually all parties in interest of investing plans except the QPAM which manages the assets involved in the transaction, and those parties most likely to have the power to influence the QPAM. In this latter regard, under section I(a) of the proposed exemption, the exemption would not be available if a QPAM caused the investment fund to enter into a transaction with a party in interest, if at the time of the transaction, the party in interest dealing with the fund, or its "affiliate" (1) was authorized to appoint or terminate the QPAM as a manager of any of the plan's assets, (2) was authorized to negotiate the terms of the management agreement with the QPAM, or (3) had exercised such powers in the two years immediately preceding the date of the proposed transaction. Several commentators urged the Department to delete or modify the two year "lookback" rule contained in section I(a), asserting that the ability of a party in interest to exercise any influence ceases when the party in interest's power to appoint, or negotiate with, QPAM terminates. The

[1] Hereafter, references to the various provisions of section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

Department is unable to conclude, as a general proposition, that the power to influence a QPAM ceases upon the termination of the power-holder's formal authority, or that benefits arranged during the period of the party's ability to appoint or negotiate with the QPAM will not inure to his or her benefit after these powers cease. However, in recognition that the ability to exercise undue influence diminishes with the passage of time, the Department has decided to modify the final exemption to provide for a one year "lookback" rule.

Certain comments noted that the class exemption as proposed failed to define "at the time of the transaction" which appeared in section I(a) and in several other provisions under the proposal. In the case of continuing transactions such as leases and loans, the commentators were concerned that events beyond the control of the QPAM which occurred after the date of a transaction could preclude the availability of the class exemption. According to a commentator, a continuing transaction such as a loan or lease which initially satisfied the conditions of the class exemption could later become prohibited if, for example, due to a change of circumstances, the party in interest borrower becomes affiliated with a person possessing the authority to appoint or terminate the QPAM. Another comment raised a related question regarding "after-acquired" party in interest status in the context of continuing transactions. Although, for example, a loan may originally have been entered into between an investment fund and a person who was not then a party in interest, the transaction may become a prohibited debtor-creditor relationship when the person later becomes a party in interest. In light of the above, the Department has adopted a new definition, under section V(i), to clarify that, with respect to continuing transactions, the exemption will be available if the conditions of the exemption were met either at the time the transaction was entered into or renewed, or at the time the transaction would have become prohibited but for this exemption.

Three commentators suggested that section I(a) should be modified to permit a contributing employer to a multiemployer plan to take advantage of the provisions of the general exemption even when such employer is affiliated with a person who is a member of the board of trustees of the plan. In the view of the commentators, in the case of a collectively bargained multiple employer plan whose board of trustees, comprised of representatives of union and management, as a body possesses the power of appointment or negotiation with respect to a QPAM, no one member of the board is likely to be in a position to influence the QPAM to cause an investment fund in which the multiple employer plan invests to engage in transactions with a particular contributing employer. Moreover, an absolute bar to broad relief under section 406(a) of ERISA for all contributing employers who are affiliated with a trustee may tend to result in difficulty in attracting qualified trustees. Nonetheless, considering the significance of this condition, and the fact that this exemption applies to QPAMs which manage single customer accounts, as well as pooled funds, the Department is unable to make a broad finding that, in all or most instances, the decision making authority possessed by a trustee will not be influenced, in fact, by the affiliated employer. Accordingly, the Department has determined not to revise this condition. Contributing employers who are adversely affected by the "power of appointment" rule are reminded that Part II of the exemption provides exemptive relief under section 406 (a) and (b) of ERISA for certain transactions involving those employers and their affiliates who cannot qualify for the general exemption provided by Part I. In addition, multiple employer plans which invest in pooled funds managed by insurance companies or banks would have the exemption for transactions with contributing employers available to them if they meet the conditions for such exemption contained in Prohibited Transaction Exemption 78–19 (43 FR 59915, December 22, 1978) and Prohibited Transaction Exemption 80–51 (45 FR 49709, July 25, 1980).

Other commentators requested that the Department, as a general matter, narrow those persons and entities listed under the definition of "affiliate" contained in section V(c) of the exemption. As part of the effort to lessen compliance burdens under the proposed exemption, the definition of affiliate in V(c) was developed in a manner designed to include fewer persons than similar provisions appearing in other class exemptions.[2] The persons identified as affiliates in section V(c) were persons most likely to share a strong identity of interest with those parties in interest seeking to engage in transactions with the investment fund managed by the QPAM. After considering the comments, the Department has determined that the safeguards contained in the exemption would not be significantly diminished by deleting those partnerships in which the person has less than a 5 percent interest from the definition of affiliate contained in section V(c)(2).

Finally, a commentator urged the Department to clarify whether section I(a) could have the effect of disqualifying parties in interest from engaging in transactions with a commingled investment fund that is managed by a QPAM if the party in interest has the authority to redeem or acquire units of the fund. The exemptive relief provided by Part I will not be available to such person since the ability to redeem or acquire units would be considered, for purposes of this exemption, the authority to appoint or terminate the QPAM as a manager of plan assets.

The general exemption set forth in Part I may be illustrated by the following examples:

Example (1). Plan P establishes a trust fund for a portion of its assets with Bank B. Assume that B meets the criteria for a QPAM under the class exemption. B uses Plan P assets to buy a building whose elevators are serviced by Company X under a maintenance contract. Absent this exemption, an investment of Plan P assets to purchase a modern elevator from X, a party in interest described in ERISA section 3(14)(B), would violate the restrictions contained in section 406(a)(1)(A), and the transaction could not proceed until exempted by the Department. The general exemption set forth in Part I would allow such a transaction if the conditions contained therein are met.

Example (2). QPAM X invests part of a pension fund's managed account to acquire a parcel of unimproved real property from its president Y. QPAM X has engaged in an act of self-dealing described in section 406(b)(1) of ERISA because it has caused the fund's assets to be used in a transaction which benefits a person in whom QPAM X has an interest which may affect the exercise of its best judgment as a fiduciary. Although Part I provides an exemption for the purchase of property from Y, it does not provide relief from acts described in section 406(b) of ERISA.

Example (3). Corporation C is the name fiduciary of Plan P. C chooses Bank B to manage the portion of P's assets allocated for real estate investments. Bank B uses these assets to purchase a commercial building in New York City from Corporation Z. Z is a wholly-owned subsidiary of C. No part

[2] See, e.g., the definition of affiliate contained in Prohibited Transaction Exemption 78–19 and Prohibited Transaction Exemption 80–51.

of the exemption would be available for the purchase of the building because Z is an affiliate (as defined in section V(c) of the exemption) of a party in interest (C) which has the authority to appoint or terminate the QPAM.

Example (4). Corporation C invests part of the assets of its Plan P in a group trust managed by Investment Advisor I. I uses group trust assets to purchase an office building which is subsequently leased to X. X provides administrative services to Plan P. During the term of the lease, X becomes a wholly-owned subsidiary of Corporation C. Although X, the party in interest, became an affiliate (as defined in section V(c)) of Corporation C which has the authority described in section I(a) of the exemption, Part I will continue to be available for the entire lease term since, at the time of the transaction (as defined in section V(i)), X was not affiliated with a party in interest that had the authority to appoint or terminate the QPAM.

Example (5). Plan M is a collectively bargained multi-employer pension plan administered by a joint board of union and employer trustees. The board of trustees chooses Insurance Company Y to manage a portion of its assets in a pooled separate account. The Insurance Company uses a portion of the pooled separate account assets to purchase computers from Corporation Z, a contributing employer to Plan M. These computers will be leased to the general public. Nether Z nor any of its affiliates is a member of the board of trustees. Although Z is a party in interest, as an employer any of whose employees are covered by the plan, the general exemption of Part I is available for the purchase of the computers. In this regard, neither Z nor an affiliate has the authority with respect to the plan described in section I(a) of the exemption.

Example (6). Assume the same facts as in Example (5) except that an officer of Corporation Z was a member of the board of trustees of Plan M for the year ending December 31, 1984. Insurance Company Y is chosen on March 15, 1985 to manage plan assets as a successor to Investment Adviser A whose two year management contract expired on March 14, 1985. Although before January 1, 1985, the officer had the authority to participate in the appointment of the QPAM and to negotiate the terms of the management contract, this authority was never exercised. Corporation Z can engage in transactions under Part I of the exemption because its affiliate, the officer, did not, at the time of the transaction have authority, and during the immediately preceding one year (when it had the authority) did not exercise it, to appoint the QPAM or negortiate a management agreement with the QPAM with regard to the Plan's assets.

Example (7). Plan P chooses a registered investment adviser, QPAM I, to manage 40 percent of its assets. The Plan allocates an additional 30 percent of its assets to a single customer insurance company separate account maintained by QPAM II. QPAM II uses a portion of the separate account's assets to purchase U.S. Government securities directly from Broker-Dealer B, wholly-owned subsidiary of QPAM I. Assuming that the QPAMs are unrelated entities, the general exemption of Part I is available for this transaction because neither QPAM I nor its affiliate, Broker-Dealer B, has, or exercised during the preceding one year, the authority to appoint or terminate QPAM II (or negotiate the QPAM's contract) as a manager of the Plan's assets involved in the transaction. In this regard, a person who is a plan fiduciary, as defined in section 3(21)(A) of ERISA, is deemed to be a fiduciary only with respect to those plan assets over which it exercises, or has responsibility to exercise, those functions which make it a fiduciary (See 29 CFR 2510.3-21(d)(2)). Thus, a fiduciary will be treated as a party in interest other than a fiduciary (i.e., a service provider) when it engages in a transaction involving plan assets with respect to which it is not a fiduciary. Accordingly, no additional relief under the self-dealing provisions of ERISA section 406(b) is required for this transaction which would be covered by Part I of ther exemption. It is to be noted, however, that if a QPAM with respect to a portion of a plan's assets engages all or a portion of those assets in a transaction with a second QPAM which manages a different portion of plan assets pursuant to an agreement, arrangement or understanding whereby it is expected that the second QPAM will engage in a transaction involving the assets managed by the second QPAM for the benefit of the first QPAM, each transaction will be treated as a prohibited transaction not afforded exemptive relief because both QPAM would be in violation of section 406(b)(1) or ERISA.

2. Transactions Specifically Excluded (Section I(b)). Section I(b) of the proposal excluded from exemptive relief those transactions described in prohibited Transaction Exemption 81-6 (46 FR 7527, January 23, 1981) (relating to securities lending arrangements), Prohibited Transaction Exemption 81-7 (subsequently modified and redesignated as Prohibited Transaction Exemption 83-1, 48 FR 895, January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools) and Prohibited Transaction Exemption 82-87 (47 FR 21331, May 18, 1982) (relating to certain mortgage financing arrangements). Two commentators urged the Department to expand the relief provided by Part I of the exemption to include transactions described in Prohibited Transaction Exemptions 81-6, 81-7, and 82-87. As indicated in the preamble to the proposal, the Department believed that the transactions and conditions described in those exemptions were developed with regard to highly standardized industry practices and the generally accepted regulation that surrounds residential mortgage financing, mortgage pool and securities lending arrangements. After considering the issue, the Department continues to believe that the transctions discussed above should be subject to those specialized class exemptions. While other class exemptions for transactions that are shaped by customary industry practice and regulation could have been explicitly excluded from the relief granted herein, the Department did not explicitly exclude those class exemptions because they generally involve fiduciaries who engage in transactions beyond the scope of the 406(a) relief provided by Part I of the exemption and this exemption would not therefore afford them relief.[3]

3. QPAM as Decision Maker (Section I(c)). Section I(c) of the proposal required that the terms of the transaction be negotiated by, or under the authority and general direction of, the QPAM and that the QPAM make the decision to enter into the transaction. Section V(b) indicated that an "investment fund" whose assets could be engaged in transactions covered by this exemption would include any account or fund to the extent that the disposition of its assets is subject to the discretionary authority of the QPAM. Several commentators expressed concern whether the proposed exemption would apply to real estate transactions where the plan sponsor or its designee retains the right to veto or approve the transaction which has been negotiated on behalf of an investment fund by a QPAM. It was represented that the investment manager often has

[3] See, e.g., Prohibited Transaction Exemptions 77-9 (44 FR 1479, January 5, 1979), 79-1 (44 FR 5963, January 30, 1979) and 79-9 (44 FR 17819, March 23, 1979).

broad discretionary authority to locate investments, to negotiate the terms of the investments and to recommend the investments for approval. The commentators argued that where plans turn over large amounts of assets to one or more investment managers for the purpose of selecting suitable investments and delegate the authority to negotiate transactions necessary for their acquisition and income production, the exemption should not be withheld merely because the ultimate investment decision necessary for the acquisition is made by plan officials who retain the authority to insure that the plan's asset allocations are harmonious with its overall portfolio objectives and consistent with the maintenance of proper diversification.

This class exemption was developed, and is being granted, by the Department based on the essential premise that broad exemptive relief from the prohibitions of section 406(a) of ERISA can be afforded for all types of transactions in which a plan engages only if the commitments and investments of plan assets and the negotiations leading thereto, are the sole responsibility of an independent investment manager. It appears to the Department that, if exemptive relief were to be provided where the QPAM has less than ultimate discretion over acquisitions for an investment fund that it manages, the potential for decision making with regard to plan assets that would inure to the benefit of a party in interest would be increased. As a result, we are unable to conclude that the retention of a veto or approval power by the plan sponsor or its designee would be consistent with the underlying concept of the QPAM exemption, that is, the transfer of plan assets to an independent, discretionary, manager. For these reasons, the Department has determined not to revise the exemption in this regard.

Nothing contained in sections I(c) and V(b) would preclude a QPAM and those persons possessing the authority to appoint the QPAM from engaging in discussions and establishing guidelines (for purposes of insertion into the written management agreement described in section V(a)) with respect to the investment objectives and policies of the investment fund and their relationship to the assets of the plan's portfolio as a whole. The QPAM could adhere to these guidelines to the extent that there is no arrangement or requirement that the QPAM cause the plan assets to be engaged in transactions with parties in interest and so long as they otherwise comply with the fiduciary responsibility provisions of part 4 of title I of ERISA.

Several commentators raised the question whether the proposed exemption would apply to transactions which are subsidiary to a primary transaction, but which have not been actually negotiated by the QPAM. It was explained, for example, that a QPAM may purchase an office building from a party in interest on behalf of an investment fund where several of the existing lessees are also parties in interest with respect to plans participating in the investment fund. Under those circumstances, the terms of the investment fund. Under those circumstances, the terms of the subsidiary transaction would not have been negotiated by the QPAM. According to the comments, the value of the exemption would be greatly diminished if it did not provide relief for such transactions. Another commentator suggested that the Department clarify the exemption to include subsidiary transactions with parties in interest where the primary transaction negotiated and approved by the QPAM involves a person who is not a party in interest. It is the view of the department that section I(c) of the exemption will be deemed satisfied in the case of subsidiary transactions if the QPAM reviews the terms of the subsidiary transactions if the QPAM reviews the terms of the subsidiary transactions if the QPAM reviews the terms of the subsidiary transactions as part of its determination that the transaction, as a whole, is prudent and otherwise in the best interests of plan participants. The Department notes, however, that it does not interpret section I(c) as exempting a subsidiary transaction unless such transaction is itself subject to relief under the class exemption and the applicable conditions are otherwise met. In this regard, the Department expects that the determination of the purchase price of a building would appropriately reflect the effect on the value of the building of leases contained therein which mught not contain fair market value terms due to the passage of time or changed economic conditions. In addition, the Department further wishes to emphasize that transactions which are part of a broader agreement, arrangement or understanding designed to benefit parties in interest will not be considered to be transactions for which the QPAM is the independent decision maker.

Other commentators noted that the requirement that "the QPAM makes the decision on behalf of the investment fund to enter into the transaction" is inconsistent with customary practices involving property managers and would create practical problems in the management of real property for investment funds. According to the commentators, real property investments frequently require on-site management by property managers who may engage in hundreds of transactions each year with respect to a particular property. The commentators argued that it would be difficult for a QPAM to approve each property management transaction, Whether large or small, as suggested by Example (7) of the proposal. In addition, the commentators noted that property managers typically act in accordance with detailed budgets or gudelines developed by the QPAM. They further argued that, in all cases, the activities of the property manager are subject to periodic review and monitoring by the QPAM and that the QPAM retains full fiduciary responsibility with respect to the transaction. On the basis of these comments, the Department has determined to modify section I(c) in the final exemption to clarify that property managers may enter into transactions under the authority and general direction of the QPAM in accordance with the terms of guidelines developed and administered by the QPAM so long as the QPAM retains full fiduciary responsibility for such transactions.

Example (8). Investment Adviser I of Plan P locates and negotiates the purchase of an office building. Under the investment management agreement with the plan sponsor, Corporation C, I is required to seek the approval of C for real estate transactions. On the basis of I's recommendation, C approves the transaction. In a separate transaction , not subject to a veto or approval power, I determines, within the exercise of its discretion, to purchase air conditioning equipment from C. Part I of the class exemption would not be available for the purchase of the building due to C's retention of the authority to approve plan acquisitions. However, section II(a) of the exemption would allow the purchase of the air conditioning equipment provided there is no arrangement that requires I to buy the equipment from C and the conditions of section II(a) are otherwise met.

Example (9). Assume the same facts as in Example (8) except that Firm A, which provides accounting services to Plan P, is a major tenant in the building. As previously noted, Part I would not be available for the purchase of the building due to C's retention of the approval power. Similarly, the class exemption would not provide relief for

any subsidiary transaction which was in existence at the time the QPAM engaged in the primary transaction subject to the approval power. Accordingly, the exemption would not be available for the lease to Firm A. This result is destinguishable from the transactions described in Example (8) wherein the purchase of air conditioning equipment subsequent to the purchase of the building separately satisfied the conditions of Part II, whereas both transactions under this example fail by reason of the condition described in section I(c).

Example (10). QPAM X allocates a portion of the assets of a profit sharing plan to purchase corporate bonds directly from Broker-Dealer B, a non-party in interest to the plan. The bonds were originally issued by Corporation Z, an investment manager for a portion of the plan's assets that are not controlled by QPAM X. Under current law, the transaction would be considered an extension of credit between the plan and Corporation Z and would violate the restrictions contained in section 406(a) (1) (B) of ERISA. Since the Department expects that, as part of its fiduciary responsibilities, the QPAM would have analyzed the terms of the bonds prior to purchase, the relief provided by Part I could extend to the underlying extension of credit. Thus, Part I of the exemption could cover subsidiary transactions with parties in interest whether or not the primary transaction, e.g., the purchase, involves a person who is a party in interest.

Example (11). A collective fund for plans managed by a bank that is a QPAM invests assets to acquire a large office building. Under section I(c), the QPAM could contract with an unrelated property manager or leasing agent which would operate the property on a day to day basis, under the authority and general direction of the QPAM, for the purpose of making it a productive investment. So long as written guidelines are established and monitored by the QPAM, and the QPAM is responsible to the plans for the property manager's activities, the property manager could, for example, negotiate lease arrangements with parties in interest eligible for the exemption.

4. Parties "Related" to QPAM (Section I(d)). Subject to a limited exemption for leases of office space, a QPAM or its affiliate could not enter into transactions under the proposal with an investment fund which it managed. Moreover, under section I(d), the general exemption was not available if the QPAM and the party in interest were "related" parties. Section V(h) of the proposal provided that a party in interest and a QPAM would be related if either entity owned a five percent or more interest, directly or indirectly, in the other entity. Two commentators noted that the term "interest" which appeared in section V(h) could be interpreted to require the inclusion of investments owned by the QPAM or party in interest in a legal capacity on behalf of others in determining whether the percentage limitation is exceeded. In response to the comments, the exemption has been modified to provide that interests held in a legal capacity need not be considered so long as the holder does not possess the authority to vote or dispose of such interest.

One of the commentators further urged the Department to delete the phrase "directly or indirectly" from section V(h) as adding unnecessarily to the compliance burdens of a QPAM since remote parties without any significant economic interest would have to be identified. It is the intention of the Department that, for purposes of section V(h), the phrase "a person controlling, or controlled by" the party in interest or the QPAM should include any entity within the vertical chain of ownership containing the QPAM or party in interest. To the extent that the phrase "directly or indirectly" might be construed to require the inclusion of interests other than those intended, the Department has determined to make the requested deletion. Finally, contrary to the position of the commentator, the Department views a five percent interest, and not some larger number, as the meaningful measure for determining generally whether a QPAM is related to a party in interest and, therefore, susceptible to its influence.

Example (12). QPAM X proposes to use Plan P assets to make a mortgage loan on commercial property owned by Corporation C, a provider of services to Plan P. Corporation Y, a wholly-owned subsidiary of Corporation X, owns a controlling interest in Corporation C. Corporation X also owns a nine percent interest in the QPAM. The general exemption set forth in Part I is not available for this transaction because Corporation X, through its intermediary (Corporation Y), controls Corporation C and has an interest in the QPAM which exceeds five percent.

5. The Diverse Clientele Test (Section I(e)). Under section I(e) of the proposal, transactions with parties in interest would not have been covered if the amount of the plan's assets that were managed by a QPAM together with the assets managed by the same QPAM that were attributable to other plans maintained by the same employer (or its affiliate) represented more than 10 percent of all employee benefit plan assets under the management of the QPAM. The comments suggested that this condition was unnecessarily restrictive and would have a potentially adverse impact on many asset managers due to the nature or structure of their particular operations. For example, separate investment management affiliates may be established within a commonly controlled corporate group. Each such member of the affiliated group specializes in a distinct area of investments such as real estate or equity securities, or separate investment managers may be established within a controlled group to manage the assets of one or several large clients. Other commentators suggested that the requirement would discriminate against recently established investment managers that have a limited number of clients. As a result, several commentators urged the Department to delete this requirement or, in the alternative, to limit its application to transactions entered into by employers under Part II of the class exemption. Other commentators suggested raising the percentage limitation or applying the limitation after aggregating employee benefit plan assets of affiliated QPAM's. Finally, several commentators argued that the 10 percent limitation should apply on the basis of total client assets under management rather than only on the basis of total employee benefit plan assets. According to one commentator, all managed assets are treated in a similar manner and should be included under section I(e) for purposes of determining whether this condition is met.

The Department is not persuaded by the arguments submitted in favor of deletion of this percentage requirement or limitation of its application to transactions described in Part II of the class exemption. A plan which provides a significant portion of the QPAM's business as a manager of plan assets would, in many cases, be in a position to improperly influence investment decisions of the QPAM. Thus, in addition to the requirement contained in section I(a) which precludes a person holding the power to appoint the QPAM from benefiting from such authority, the Department believes that a separate condition is warranted to restrict persons having the authority to allocate significant amounts of a plan's assets to a QPAM from using their influence for the benefit of any other person who is a party in interest to the plan. With

respect to the aggregation of plan assets managed by affiliated QPAMs, no comment offered or testimony given at the public hearing was responsive to the Department's expressed belief that since the QPAMs within a controlled group are indeed organized as separate entities, are separately managed and are separately accountable for operating profits or losses, they should be considered separate focal points of potential undue influence for purposes of this requirement. The Department views the existence of a QPAM with a diverse clientele such that no one plan or its parties in interest can dictate the character or terms of specific transactions as a significant factor in its ability to propose and grant exemptive relief. However, the argument of many commentators that, as proposed, the condition may prove to be unduly restrictive has been accepted based, in large part, on the nature of the transactions exempted and the additional protections embodied in the class exemption. On the basis of these comments, the Department has modified section I(e) to increase the percentage limitation to 20 percent of all client assets managed by the QPAM. All funds that are turned over to a QPAM for discretionary management, whether or not constituting the assets of employee benefit plans, may be considered in applying the new 20 percent limitation.

Example (13). A QPAM is organized solely to manage the assets of only three plans. Plans X, Y, and Z delegate responsibility for the management of $3,000,000, $6,000,000 and $2,000,000, of their respective assets to the QPAM. The exemption would be available for transactions involving the parties in interest of Plan Z only.

Example (14). Investment Adviser I manages $100,000,000 in assets derived from public and private pension plans. I's sole remaining client is a private foundation, on whose behalf I manages $25,000,000. Investment Adviser I, which manages $25,000,000 of Plan P assets in a single customer real estate account, proposes to use Plan P assets to purchase a parcel of real estate from a party in interest with respect to such plan. Under the proposal, Part I of the exemption would not have been available for the transaction because Plan P's assets represented more than 10 percent of the total employee benefit plan assets managed by the Investment Adviser. As granted, the final exemption would now be available for this transaction because Plan P's assets represent not more than 20 percent of the total client assets managed by Investment Adviser I.

Example (15). Corporation X and its wholly owned subsidiary, Corporation Y, maintain separate pension plans for their employees. The assets of Corporation X's plan and Corporation Y's plan are managed by Investment Adviser Z (a QPAM) and comprise 14 percent and 12 percent, respectively, of the total client assets managed by the Investment Adviser. The Investment Adviser uses plan assets of Corporation X to purchase a shopping center. The Investment Adviser proposes to purchase landscaping shrubbery from a party in interest of either plan. The proposed exemption would not be available for this transaction because the assets of Corporation X's plan (14 percent) when aggregated with the assets of the plan maintained by its affiliate, Corporation Y, (12 percent) represent more than 20 percent of the total client assets managed by the QPAM. However, the exemption would be available for transactions involving parties in interest with respect to other plans managed by the QPAM if the conditions of the exemption are met.

6. Anti-Criminal Rule (Section I(g)). Section I(g) of the proposed exemption would not be available if either the QPAM or various affiliates (as defined in section V(d)), or an owner of a 5 percent or more interest in the QPAM were convicted of various crimes more fully described under that condition. Two commentators urged the Department to modify the affiliation rules under section V(d) to facilitate efforts to comply with this restriction. It appears that large insurance companies and banks may have several hundred officers, many of whom do not deal with employee benefit plan assets. The Department was urged to limit the number of affiliated officers to those who are highly compensated, or who have authority or control over plan assets. One of the comments further noted that the inclusion in the definition of affiliate of all corporations and partnerships in which the QPAM has an ownership interest could encompass hundreds or even thousands of companies without regard to the size of the QPAMs interest. The commentator argued that it would be difficult for a QPAM to determine for all entities in a QPAM's investment portfolio whether there had been a conviction for a listed crime. Therefore, the commentator urged the Department to modify the definition of affiliate so as to pertain only to entities in which the QPAM is a controlling owner or partner. Finally, a commentator suggested that the Department delete the affiliation rules and substitute a rule limited to individuals having direct access to plan assets. While the Department is unable to conclude that deletion of the affiliation rules would leave plans and their transactions that are covered by this exemption adequately protected, the Department has determined that it would be appropriate to modify the affiliation definition to exclude officers that are not highly compensated and who have no responsibility or control regarding plan assets, and those entities in which the QPAM has a *de minimus* ownership interest.

B. Special Exemptions for Employers

Part II of the proposed exemption provided limited relief under both section 406 (a) and (b) of ERISA for certain transactions involving those employers and certain of their affiliates which could not qualify for the general exemption provided by Part I.

1. Goods and Services. Part II was divided into two subparts. Section II(a) permitted transactions involving the furnishing of goods and services to an investment fund managed by a QPAM if the conditions of that exemption were satisfied. Under the proposal, transactions must have been necessary for the administration or management of the investment fund and must have taken place in the ordinary course of a business engaged in by the party in interest with the general public. As a limitation, section II(a)(4) of the proposal further required that no more than one percent of the party in interest's annual gross receipts from all sources were attributable to transactions engaged in with an investment fund pursuant to this special exemption.

In response to several comments, the Department wishes to specifically point out that where an employer and/or its affiliates may be entitled to relief under both Parts I and II of the class exemption, the employer or its affiliates may engage in transactions pursuant to either Part I or Part II of the class exemption.

A commentator noted that the class of affiliates which, by reason of the restriction of section I(a) (with reference to the definition of "affiliate" contained in section V(c) of the proposal) was excluded from the general exemption, was broader than the group of parties in interest related to an employer which was entitled to relief under Part II(a). According to the commentator, this approach produced a gap whereby certain affiliates of an employer were denied exemptive relief under both Parts I and II of the class exemption. The commentator recommended that Part II

be expanded to include either: (1) All parties in interest (other than the QPAM and persons related to the QPAM) not entitled to relief under Part I, or (2) employers and their affiliates as defined under section V(c). For purposes of consistency, the Department has amended section II(a) to provide relief for an employer and certain affiliates of the employer as defined in section V(c). Other (non-employer) parties in interest who, by reason of the application of section I(a), may not use the general exemption are provided limited relief for plan asset transactions under Parts III and IV of this exemption.

Another commentator urged the Department to expand section II(a) to permit a QPAM to select itself or affiliates to provide multiple services and to receive additional fees for such services, provided that an independent fiduciary authorizes the QPAM in advance to provide the services. The Department believes the situation described by the commentator presents potential violations of section 406(b) for which the Department is not prepared to grant additional relief.

One of the commentators argued that the "goods" which could be provided to the investment fund (as well as which might be acquired from the investment fund) should include securities or other financial instruments. In response, the Department believes that the QPAM is hired to make investment decisions on an objective and prudent basis and should not be subject to real or perceived influence by the appointing employer with respect to acquisitions of plan investments. To clarify this matter, the final exemption includes a new section V(j) which defines the term "goods."

Several comments suggested that it would be impossible to determine the gross receipts of a party in interest for the taxable year in which a transaction occurs for purposes of section II(a)(4) where the taxable year of such party in interest is not yet completed at the time of the transaction. In addition, the comments noted that it would be difficult in some cases to obtain the financial information necessary to determine compliance with this condition. As a result, the commentators recommended that the Department modify section II(a)(4) to provide that the value of goods and services provided by a party in interest to an investment fund not exceed one percent of: (1) The total assets of the investment fund as of the end of its prior fiscal year of (2) the gross receipts of the party in interest as of the end of its prior taxable year. Under the first alternative, the dollar amount involved would be determined by the size of the investment fund and, thus, the value of the goods and services involved in the transaction could be significant. Moreover, the Department believes that the realistic test of influence for purposes of this special relief should be determined by reference to the significance of the transaction, or the series of transactions, within a given year to the employer or its affiliates. The Department, however, agrees that it may be difficult to comply with the condition, as proposed. Therefore, the Department has modified the exemption so that the value of the goods and services provided to each investment fund managed by the QPAM in which assets of the plan(s) sponsored by the employer are invested may not exceed one percent of the gross receipts of such party in interest for its prior taxable year. The one percent limitation is applied on an investment fund by investment fund basis; no aggregation or averaging is permitted. With respect to a particular investment fund, each employer which has invested plan assets and each of its affiliates is entitled to earn up to one percent of its gross receipts from transactions with the fund; aggregation of the receipts of affiliated parties in interest is neither required nor permitted.

Example (16). Pursuant to a proper plan provision, Corporation A, a pension consulting firm which provides actuarial services in the ordinary course of its business, enters into an agreement with a QPAM for the management by the QPAM of the assets of the A-sponsored plan. The QPAM wishes to retain A to provide actuarial services with regard to the trust fund established for the plan. Although the relief afforded by Part I of the proposed exemption would not be available to Corporation A because it has the authority to hire and fire the QPAM, Part II of the exemption would permit Corporation A to provide the type of services that it normally furnishes to the public and that are necessary for the plan, if the remaining conditions of Part II are met.

Example (17). The Board of Directors of Corporation X allocates a portion of Plan P's assets to Investment Adviser I for real estate management under Investment Fund F. I uses these assets to purchase a shopping center. I contracts with X, a lighting fixtures wholesaler, to purchase and install new fluorescent fixtures throughout the shopping center. The contract sales price for the fixtures and installation amounted to 0.5 percent of the total gross receipts received by X during its prior taxable year. The special exemption for employers contained in section II(a) is available for the purchase of fixtures and the accompanying services because the total cost of these goods and services is less than one percent of X's total gross receipts for its prior taxable year and such goods and services are provided in the ordinary course of X's business.

Example (18). Assume that in addition to the facts stated in Example (17), X has an affiliate, Y, which sells and installs neon signs. Pursuant to section II(a) of the exemption, I can contract with Y to provide neon signs for the shopping center in an amount up to one percent of Y's total gross receipts for its prior taxable year. Thus, for each taxable year, each employer and its affiliate may derive up to one percent of its gross receipts from transactions with the same investment fund.

Example (19). Insurance Company I maintains two pooled separate accounts, A and B, for real estate investments. Employer E allocates portions of its plan's assets to accounts A and B for investment management. I contracts with E to provide those services which it provides to the general public in the ordinary course of its business to pooled separate accounts A and B in amounts constituting 0.5 percent and 1.5 percent, respectively, of E's gross receipts for the prior taxable year. The special exemption for employers contained in section II(a) is available for the provision of services to pooled separate account A. No relief is provided for the services to account B because the value of such services exceeds the one percent limitation contained in section II(a). In this regard, the exemption does ot permit an employer to average the value of goods and services provided to investment funds to satisfy this one percent limitation.

2. Leases. Section II(b) of the proposal permitted the leasing of office or commercial space by an investment fund to an employer, or an affiliate of the employer described in section 3(14)(E), (G), (H) or (I) of ERISA, if the unit of space under lease was suitable for use by different tenants and did not exceed 15 percent of the rentable space of the office building or commercial space. In addition, no commission could have been paid by the investment fund in connection with the transaction. Section II(b) further provided relief from the restrictions of ERISA section 407(a) for transactions involving the leasing of office space to employers even where such leases might not otherwise qualify under the employer real property rules by reason of the definition of "qualifying employer real property" contained in

ERISA section 407(d)(4).[4] However, in the case of a plan that was not an eligible individual account plan, immediately after the lease transaction, the aggregate fair market value of employer real property and employer securities held by the investment funds of the QPAM in which the plan had an interest could not exceed ten percent of the fair market value of the assets of the plan held in those investment funds.

Several commentators noted that the no commission rule would prohibit a plan from paying a commission to an independent third party real estate broker who identified and referred a qualified tenant to the QPAM. According to the comments, it is customary business practice for the building owner to pay the agent's commission. It was suggested that this requirement would discourage independent leasing agents and brokers from bringing qualified tenants to the QPAM's attention. The commentators indicated that a requirement prohibiting the payment of commissions to the QPAM, the employer, and any affiliates of the QPAM or employer would provide an adequate safeguard under the class exemption while, at the same time, permitting the QPAM to engage in customary leasing transactions on behalf of the investment fund. The Department has adopted this suggestion and modified the final exemption accordingly.

A number of commentators posed a question regarding whether the 15 percent limitation contained in section II(b)(4) would be exceeded if a QPAM used plan assets to acquire an office or industrial park containing a number of buildings and leased an entire building to a party in interest. While the lease would exceed 15 percent of a particular building, the commentators noted that it would only constitute a small percentage of the entire complex. The Department intends that the 15 percent requirement will apply to the entire office or industrial park if the buildings comprising the park can be viewed as part of a single, integrated investment. Language clarifying this intention has been added to section II(b)(4). Another commentator suggested an alternative approach under which the percentage limitation would apply to all of the real property held by a plan or the total amount of assets in the investment fund. Finally, a commentator urged the Department to adopt exceptions for leases by employers in properties owned by pooled vehicles through which the employer has invested plan assets if the plan has less than a 10 percent interest in the pooled vehicle or if the lease is less than 50,000 square feet. Under the suggested alternatives, the amount of space leased to a party in interest could be significant. Under those circumstances, there may not be a reasonable probability that comparable leases are being executed with unrelated parties so as to assure arm's-length terms in those leases entered into with parties in interest. Consequently, without the significant protections afforded by leases with unrelated parties, the Department does not believe that the suggested alternatives would be protective of the interests of participants and beneficiaries.

Several commentators requested clarification regarding the application of the 10 percent test of section II(b)(5) in the context of a commingled investment fund. According to the comments, because a plan owns only an undivided fractional interest in a commingled fund, it is generally deemed to hold the same fractional interest in any employer security or employer real property held by the fund. Therefore, the Department was urged to clarify section II(b)(5) to clearly indicate that the aggregate fair market value of employer real property and employer securities held by an investment fund should be determined on the basis of the plan's pro rata interest in such employer real property and employer securities. The Department accepts these comments, and has modified section II(b)(5) in the final exemption. Another commentator urged the Department to adopt an alternative approach under which section II(b)(5) would not apply at all to employer real property held in a pooled investment vehicle if the plan holds less than ten percent of the assets of such pooled investment vehicle. In light of the Department's discussion above regarding the application of section II(b)(5) on the basis of a plan's pro rata interest in an investment fund, the Department does not believe that further relief is warranted. A commentator suggested that the Department limit the definition of "employer real property" and "employer securities" contained in section II(b)(5) to only include real property leased to, or securities issued by, an employer or a person having a relationship to the employer described in section 3(14) (E) or (G) of ERISA (and not affiliates of employers decribed in section 3(14) (H) or (I)) in order to alleviate compliance burdens under the exemption. The Department finds merit in this comment and, after consideration of the statutory provisions of section 407(a) and 407(d)(7) of ERISA, upon which section II(b)(5) was predicated, has determined to revise the list of party in interest lease transactions which must be taken into account for purposes of this requirement. In response to another comment, the Department notes that, for purposes of section II(B)(5), the term "employer real property" includes only that portion of the office building or the commercial center actually leased to the party in interest. Lastly, two commentators suggested that the Department revise section (II)(b)(5) to provide an alternative rule which would state that a lease was in compliance with that condition if *all* of a plan's assets whether or not managed by the QPAM satisfy the 10 percent limitation of section 407(a) of ERISA. This suggestion has not been accepted. The Department notes in response that the exemption's 10 percent limitation is to be applied with regard to the assets of the investment funds managed by the QPAM and allows the QPAM to enter into such lease transactions without concerning itself as to whether the lease is qualifying employer real property. However, the overall restrictions on holdings of employer real property and employer securities contained in section 407(a) of ERISA must in any event be satisfied.

Example (20). Corporation X chooses Insurance Company I to manage Profit-Sharing Plan P's assets in a single customer separate account. I uses plan assets to purchase a fifty-story office building. I proposes to lease one floor of the building to Corporation Z, a wholly owned subsidiary of X. Independent real estate agent A will receive a commission payable from plan assets for locating the rental space. A is not related to either Corporation X or Insurance Company I. The special exemption provided by section II(b) is available for this transaction because the amount of space to be leased to Z is less than 15 percent of the rentable space of the office building and no commission will be paid by the separate account to the QPAM or to the employer or any affiliates thereof in connection with the transaction.

Example (21). X Corporation Pension Plan holds units worth $10,000,000 in a collective investment fund managed by Investment Adviser I. This investment represents 10 percent of the value of the investment fund. I purchases a suburban office park containing ten identical buildings. I proposes to lease one entire building with a value of $2,000,000 to X Corporation. The proposed lease would

[4] For example, a lease of an office by the investment fund to the employer may not meet the requirement of ERISA section 407(d)(4)(A) that a substantial number of leased parcels be dispersed geographically.

satisfy section II(b)(4) because the amount of space covered by the lease represents less than 15 percent of the rentable space of the office park. In addition, section II(b)(5) would be met with respect to the pension plan because the plan's pro rata interest in the employer real property (10 percent of $2,000,000) represents less than 10 percent of the plan's interest in the collective investment fund. Therefore, the special exemption provided by section II(b) would allow such a transaction.

Example (22). Pension Plan P allocates $1,000,000 and $2,000,000, respectively, to collective investment Funds A and B managed by a QPAM bank. These investments represent 5 percent of the value of Fund A and 10 percent of the value of Fund B. Fund A and Fund B each separately purchase a large office building and now propose to lease space in such buildings to Plan P's sponsor, Corporation C. Assume that the fair market value of the property leased to C by Fund A would represent $200,000 and 5 percent of the rentable space of Fund A's building. Assume further that the fair market value of the property leased to C by Fund B would represent $400,000 and 12 percent of the rentable space of Fund B's building. These leases will satisfy section II(b)(4) since they represent less than 15 percent of the rentable space on a building by building basis. In addition, section II(b)(5) would be met with respect to the pension plan because the plan's pro rata interest in the employer real property (5 percent of $200,000 plus 10 percent of $400,000) represents less than 10 percent ($50,000/$3,000,000=1.67 percent) of the plan's interest in the collective investment funds. Therefore, the special exemption provided by section II(b) would allow such transactions.

C. Specific Lease Exemption for QPAMs

Part III of the proposed exemption provided limited relief under section 406 (a) and (b) of ERISA for the leasing of office space by an investment fund to the QPAM, an affiliate of the QPAM, or a person who could not qualify for the general exemption provided by Part I because it held the power of appointment described in section I(a). As a limitation, the unit of space under the lease must have been suitable for use by different tenants and could not have exceeded one percent of the rentable space in the office buildings.

Several commentators noted that the one percent limitation on the amount of space leased was not a realistic restriction when applied to leases in small and medium-sized building. According to some of the commentators, one percent of the space in such buildings would be inadequate to conduct even the smallest business operation. As a result, several commentators suggested that the Department raise the percentagte limitation. Another commentator urged the Department to provide an alternative limitation of 7500 square feet. On the basis of these comments, the Department has amended Part III in to permit leases of the greater of 7500 square feet or 1 percent of the rentable space of the office building. In response to two comments, the Department has amended Part III order to clarify that the exemption is not limited to the leasing of office space but also includes leases of commercial property.

D. Definitions

1. QPAM (Section V(a)). Several commentators urged the Department to expand the definition of "bank" to include savings and loan associations. The commentators have represented that savings and loan associations satisfy criteria similar to the criteria used in the definition of a bank contained in section 202(a)(2) of the Investment Advisers Act of 1940. Other commentators noted that the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, 94 Stat. 132, 12 U.S.C. 1464(n), authorized federal savings and loan associations to exercise general fiduciary powers upon application to the Federal Home Loan Bank Board. Another commentator represented that several states have authorized state-chartered institutions to exercise general fiduciary powers. On the basis of these comments, the Department has added a special provision designed to include eligible savings and loan associations in its definition of a QPAM. In this regard, certain savings and loan associations are organized as stock corporations with respect to which the "equity capital" standard as defined in section V(k) is appropriate. Others are established as mutual savings and loan associations or mutual savings banks which, under industry practices, measure capital in terms of "net worth" as defined in section V(1). The one million dollar standard may be satisfied by reference to either "equity capital" or "net worth", as the case may be.

A number of commentators noted that the $750,000 shareholder's equity and the $50 million of client assets under management standards of section V(a)(3) would eliminate many investment advisory firms that are not affiliated with financial institutions. According to the comments, many investment advisory firms are not heavily capitalized and therefore could not qualify as QPAMs. Other commentators posed a related concern by representing that many advisory firms conduct their business operations through a number of affiliated or subsidiary organizations which would similarly fail one or both of these standards unless the exemption permitted the aggregation of client assets and the financial resources of affiliated companies. As a result, several commentators urged the Department to reduce or delete these requirements.

The proposed exemption's premise was that basic financial standards must be required for every entity or person investing plan assets pursuant to the relief provided by the proposed exemption to assure some degree of financial accountability to plans in the event of breaches of fiduciary obligations and to discourage the exercise of undue influence upon the QPAM's decision making processes. None of the comments have persuasively refuted this premise. As indicated earlier (under the discussion of section I(e)), it is the Department's belief that the individual QPAM is more likely to be the focus of undue influence rather than the affiliated group of which it is a member. Moreover, it is apparent that a QPAM, as in the case of any other corporation, may be established as a separate entity to limit the liability of common principals. For these reasons, the Department cannot conclude that the assets under management and the capital of related, but separate, corporate entities should be aggregated mechanically where such aggregation has not practical significance.

However, in consideration of the concerns expressed by the commentators, the Department has determined that it would be appropriate to modify the class exemption to permit a QPAM who is an investment adviser to satisfy section V(a)(3) if an affiliate of the QPAM described in section V(c)(1) (such as a parent or subsidiary) unconditionally guarantees payment of the QPAM's liabilities (including any liabilities for damages resulting from its breach of any of its fiduciary responsibilities under ERISA), and if the QPAM and such affiliate have net worth, in the aggregate, in excess of $750,000. In the case of a QPAM that is a partnership, the Department is of the view that the net worth of the general partners comprising the QPAM partnership may be aggregated with the net worth of the QPAM for purposes of compliance with the minimum capital standard to the extent that the partners'

net worth would be available to satisfy any claims made against the QPAM.

Several of the commentators urged the Department to permit the use of fiduciary liability insurance as a means of satisfying the financial responsibility requirement applicable to investment advisers. It appears that insurance contractors or policies covering both negligent and intentional breaches of the fiduciary responsibility provisions of ERISA, and particularly such breaches of sections 404 and 406 of ERISA, are not readily available. Moreover, it appears that payments under "errors and omissions" or fiduciary liability policies may be made, under many policies, only for claims filed during the period the policies are in force, but not for claims made after expiration of the policies—even though the claims relate to alleged misconduct that arose during a policy's term. In the absence of some clear indication that the terms of currently marketed fiduciary insurance policies or contracts provide suitable protections to employee benefit plans, the Department cannot adopt the alternative of insurance suggested by commentators.

Two commentators urged the Department to expand the definition of QPAM to include real estate investment advisers who meet certain standards of academic and business expertise or who have made or placed in excess of, e.g., $10 million in real estate financing. Another commentator suggested that the Department adopt a revised definition of an investment adviser QPAM based, in part, on membership in a professional organization and compliance with its standards of practice. Other than requiring the necessary minimum standards of financial accountability for discretionary asset managers designed, in part, to discourage the exercise of undue influence by parties in interest, the Department does not believe that it would be appropriate to adopt a difinition that, in effect, would require membership in certain professional organizations, certain levels of educational experience or conformance with specified business practices.

Finally, several commentators recommended that the requirement that the QPAM acknowledge that it is a fiduciary in a written management agreement be clarified so as to permit notification by means of any writting. The commentators represented that investment managers employ different practices in acknowledging their fiduciary status. While noting that some insurance companies and banks acknowledge their fiduciary status in the insurance contract or trust agreement they issue to plans, the commentators suggested that other entities may satisfy this requirement by a separate letter that contains such an acknowledgement. The commentators argued that it would be time-consuming and expensive to require the amendment of thousands of insurance contracts and trust agreements. As noted in the proposal, it is the view of the Department that an entity would not achieve QPAM status unless it enters into a written management agreement or contract that contains a clear delegation of authority to act as a fiduciary with respect to some or all of the assets of a plan. In general, the requirement that there be a written management agreement may be satisfied so long as the necessary provisions, whether contained in a trust agreement, insurance contract, limited partnership agreement, etc., or in a separately executed "Management Agreement", describe with specificity the duties and responsibilities to be assumed by the entity and its management. Similarly, in requiring that the QPAM acknowledge that it is a fiduciary, the Department does not intend to unduly burden those financial entities eligible to achieve QPAM status under the class exemption. Therefore, this requirement would be satisfied if the written acknowledgement of fiduciary status is clearly evidenced in any one or more written documents which, in totality, comprise the written management agreement.

2. Investment Fund (Section V(b)). A number of commentators urged the Department to expand the definition of "investment fund" to expressly include various types of legal entities (other than those listed) in which plans have an interest. The Department had not intended that the definition of investment fund contain an all-inclusive list of investment vehicles. In the Department's view, the definition of investment fund as presently written provides a flexible approach designed to accommodate any account or fund to the extent that the disposition of its assets is subject to the discretionary authority of the QPAM. The Department notes that the written management agreement with the QPAM should adequately describe the investment vehicle in which plan assets are to be invested.

E. Retroactivity

Several commentators urged that the relief provided by the class exemption be given retroactive application. The commentators' suggestions for retroactive relief ranged from the effective date of ERISA's fiduciary responsibility provisions (January 1, 1975) to the date of the notice of proposed exemption (December 21, 1982). Only as of the date of proposal was the Department's prevously articulated general intention to provide deregulatory relief from the prohibited transaction provisions of ERISA reduced to a detailed format of structural guidance for plans and their fiduciaries. Accordingly, in the interests of sound administration, the Department believes it appropriate that this exemption be effective from December 21, 1982.

F. Miscellaneous

1. A commentator asserted the necessity for an additional exemption for the acquisition and holding of employer securities and employer real property where the employer is a contributing employer to a multiple employer pension plan. Prohibited Transaction Exemptions 78–19 and 80–51 already provide substantial relief for acquisitions and holdings of employer securities and employer real property by pooled separate accounts and collective investment funds that are sponsored by insurance companies and banks, respectively, and in which multiple employer plans invest. The Department does not believe that a sufficient showing has been made that the problems associated with the restrictions imposed by ERISA section 407(a) on single customer accounts consisting of multiple employer plan assets are commonplace and, consequently, is unable to make the findings necessary to grant exemptive relief. Of course, upon proper application demonstrating that this is a realistic concern, the Department would be prepared to consider what relief, if any, is appropriate.

2. A commentator urged the Department to relax the conditions under which this exemption is being granted so that, e.g., without regard to the diversification test of section I(e) and the financial standards that qualify a QPAM under section V(a), plans could acquire publicly traded securities that are issued by large, heavily capitalized, companies. The Department has determined that adoption of this approach would arbitrarily encourage one specific form of plan investment over another. Therefore, the Department cannot conclude that further relief is warranted.

3. In response to a comment, the Department has revised section V(c) to clarify that an "independent" individual or entity designated by a plan sponsor as named fiduciary of its plan with authority to appoint or terminate the QPAM as a manager of plan assets will

be considered an "affiliate" of that plan sponsor.

4. A commentator noted that the arm's-length rule contained in sections I(f) and III(c) of the proposed exemption was essentially the same as the arm's-length rule contained in Prohibited Transaction Exemption 78–19 except that the phrase "that requires the consent of the QPAM" was omitted under the proposal. For purposes of consistency, the Department has adopted this comment and modified the final exemption accordingly.

5. A commentator suggested that the Department modify section II(a)(2), permitting the furnishing or servicing of goods by employers if the transactions are necessary for the administration or management of the investment fund, by deleting the word "necessary" and substituting the words "in furtherance of" to clarify that the relief may be available even if there are sources for the goods and services other than the party in interest. Without disagreeing with the commentator, the Department intended that the term "necessary" have the same meaning as a similar provision contained in section 408(b)(2) of ERISA and defined under 29 CFR 2550.408b–2(b). No modification is necessary.

6. Two commentators urged the Department to delete the phrase "with the general public" from section II(a)(3) of the class exemption without further explanation. The Department believes that the presence of independent customer business provides an important protection under the class exemption. Therefore, the Department has determined not to revise this condition.

7. In response to a comment, the Department notes that the terms "commercial space" or "commercial center" as used in section II(b) would include industrial, warehouse, distribution or multi-use space.

8. One commentator raised the question whether an unincorporated sole proprietorship can qualify as a QPAM under section V(a)(4). In the Department's view, a sole proprietorship that satisfies the minimum capital and funds-under-management standards of section V(a)(4) can qualify as a QPAM.

9. Finally, in response to several comments, the Department wishes to takes the opportunity to state that the grant of this class exemption for transactions involving the assets of plans managed by independent institutional managers does not foreclose future consideration of additional exemptive relief for transactions involving plan assets that are not managed by "QPAMs" as defined for purposes of this exemption, or for transactions which do not meet all of the conditions of this exemption. For example, the Department may pursue additional exemptive relief for transactions involving assets of plans managed by in-house managers if the requisite findings under section 408(a) can be made.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of ERISA; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries; (2) This exemption is supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and (3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of December 21, 1982, the Department makes the following determinations:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Part I—General Exemption

Effective December 21, 1982, the restrictions of ERISA section 406(a)(1)(A) through (D) and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1)(A) through (D), shall not apply to a transaction between a party in interest with respect to an employee benefit plan and an investment fund (as defined in section V(b)) in which the plan has an interest, and which is managed by a qualified professional asset manager (QPAM) (as defined in section V(a)), if the following conditions are satisfied:

(a) At the time of the transaction (as defined in section V(i)) the party in interest, or its affiliate (as defined in section V(c)), does not have, and during the immediately preceding one year has not exercised, the authority to—

(1) Appoint or terminate the QPAM as a manager of any of the plan's assets, or

(2) Negotiate the terms of the management agreement with the QPAM (including renewals or modifications thereof) on behalf of the plan;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 81–6 (46 FR 7527; January 23, 1981) (relating to securities lending arrangements),

(2) Prohibited Transaction Exemption 83–1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Exemption 82–87 (47 FR 21331; May 18, 1982) (relating to certain mortgage financing arrangements);

(c) The terms of the transaction are negotiated on behalf of the investment fund by, or under the authority and general direction of, the QPAM, and either the QPAM, or (so long as the QPAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the QPAM, makes the decision on behalf of the investment fund to enter into the transaction, provided that the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(d) The party in interest dealing with the investment fund is neither the QPAM nor a person related to the QPAM (within the meaning of section V(h));

(e) The transaction is not entered into with a party in interest with respect to any plan whose assets managed by the

QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof described in section V(c)(1) of this exemption) or by the same employee organization, and managed by the QPAM, represent more than 20 percent of the total client assets managed by the QPAM at the time of the transaction;

(f) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are at least as favorable to the investment fund as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither the QPAM nor any affiliate thereof (as defined in section V(d)), nor any owner, direct or indirect, of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of: any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or any other crime described in section 411 of ERISA. For purposes of this section (g), a person shall be deemed to have been "convicted" from the date of the judgement of the trial court, regardless of whether that judgement remains under appeal.

Part II—Specific Exemptions for Employers

Effective December 21, 1982, the restrictions of sections 406(a), 406(b)(1) and 407(a) of ERISA and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of Code section 4975(c)(1) (A) through (E), shall not apply to:

(a) The sale, leasing, or servicing of goods (as defined in section V(j)), or to the furnishing of services, to an investment fund managed by a QPAM by a party in interest with respect to a plan having an interest in the fund, if—

(1) The party in interest is an employer any of whose employees are covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in section V(c),

(2) The transaction is necessary for the administration or management of the investment fund,

(3) The transaction takes place in the ordinary course of a business engaged in by the party in interest with the general public,

(4) Effective for taxable years of the party in interest furnishing goods and services after the date this exemption is granted, the amount attributable in any taxable year of the party in interest to transactions engaged in with an investment fund pursuant to section II(a) of this exemption does not exceed one (1) percent of the gross receipts derived from all sources for the prior taxable year of the party in interest, and

(5) The requirements of sections I (c) through (g) are satisfied with respect to the transaction;

(b) The leasing of office or commercial space by an investment fund managed by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if—

(1) The party in interest is an employer any of whose employees are covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in section V(c),

(2) No commission or other fee is paid by the investment fund to the QPAM or to the employer, or to an affiliate of the QPAM or employer (as defined in section V(c)), in connection with the transaction,

(3) Any unit of space leased to the party in interest by the investment fund is suitable (or adaptable without excessive cost) for use by different tenants,

(4) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building, integrated office park, or of the commercial center (if the lease does not pertain to office space),

(5) In the case of a plan that is not an eligible individual account plan (as defined in section 407(d)(3) of ERISA), immediately after the transaction is entered into, the aggregate fair market value of employer real property and employer securities held by investment funds of the QPAM in which the plan has an interest does not exceed 10 percent of the fair market value of the assets of the plan held in those investment funds. In determining the aggregate fair market value of employer real property and employer securities as described herein, a plan shall be considered to own the same proportionate undivided interest in each asset of the investment fund or funds as its proportionate interest in the total assets of the investment fund(s). For purposes of this requirement, the term "employer real property" means real property leased to, and the term "employer securities" means securities issued by, an employer any of whose employees are covered by the plan or a party in interest of the plan by reason of a relationship to the employer described in subparagraphs (E) or (G) of ERISA section 3(14), and

(6) The requirements of sections I (c) through (g) are satisfied with respect to the transaction.

Part III—Specific Lease Exemption for QPAMs

Effective December 21, 1982, the restrictions of section 406(a)(1) (A) through (D) and 406(b) (1) and (2) of ERISA and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (E), shall not apply to the leasing of office or commercial space by an investment fund managed by a QPAM to the QPAM, a person who is a party in interest of a plan by virtue of a relationship to such QPAM described in subparagraphs (G), (H), or (I) of ERISA section 3(14) or a person not eligible for the General Exemption of Part I by reason of section I(a), if—

(a) The amount of space covered by the lease does not exceed the greater of 7500 square feet or one (1) percent of the rentable space of the office building, integrated office park or of the commercial center in which the investment fund has the investment,

(b) The unit of space subject to the lease is suitable (or adaptable without excessive cost) for use by different tenants,

(c) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are not more favorable to the lessee than the terms generally available in arm's length transactions between unrelated parties, and

(d) No commission or other fee is paid by the investment fund to the QPAM, any person possessing the disqualifying powers described in section I(a), or any affiliate of such persons (as defined in section V(c)), in connection with the transaction.

Part IV—Transactions Involving Places of Public Accommodation

Effective December 21, 1982, the restrictions of section 406(a)(1) (A)

through (D) and 406(b) (1) and (2) of ERISA and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (E), shall not apply to the furnishing of services and facilities (and goods incidental thereto) by a place of public accommodation owned by an investment fund managed by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if the services and facilities (and incidental goods) are furnished on a comparable basis to the general public.

Part V—Definitions and General Rules

For the purposes of this exemption:

(a) The term "qualified professional asset manager"or "QPAM" means—

(1) A bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 that has the power to manage, acquire or dispose of assets of a plan, which bank has, as of the last day of its most recent fiscal year, equity capital (as defined in section V(k)) in excess of $1,000,000 or

(2) A savings and loan association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, that has made application for and been granted trust powers to manage, acquire or dispose of assets of a plan by a State or Federal authority having supervision over savings and loan associations, which savings and loan association has, as of the last day of its most recent fiscal year, equity capital (as defined in section V(k)) or net worth (as defined in section V(l)) in excess of $1,000,000 or

(3) An insurance company which is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a plan, which company has, as of the last day of its most recent fiscal year, net worth (as defined in section V(1)) in excess of $1,000,000 and which is subject to supervision and examination by a State authority having supervision over insurance companies, or

(4) An investment adviser registered under the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of $50,000,000, and either (A) shareholders' or partners' equity (as defined in section V(m)) in excess of $750,000, or (B) payment of all of its liabilities including any liabilities that may arise by reason of a breach or violation of a duty described in sections 404 of 406 of ERISA is unconditionally guaranteed by—

(i) A person with a relationship to such investment adviser described in section V(c)(1) if the investment adviser and such affiliate have, as of the last day of their most recent fiscal year, shareholders' or partners' equity, in the aggregate, in excess of $750,000, or

(ii) A person described in (a)(1), (a)(2) or (a)(3) of section V above, or

(iii) A broker-dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, net worth in excess of $750,000;

Provided that such bank, savings and loan association, insurance company or investment adviser has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

(b) An "investment fund" includes single customer and pooled separate accounts maintained by an insurance company, individual trusts and common, collective or group trusts maintained by a bank, and any other account or fund to the extent that the disposition of its assets (whether or not in the custody of the QPAM) is subject to the discretionary authority of the QPAM.

(c) For purposes of section I(a) and Part II, and "affiliate" of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 5 percent or more partner, or employee (but only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets. A named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan are affiliates with respect to each other for purposes of section I(a).

(d) For purposes of section I(g) an "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person), or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(e) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term "party in interest" means a person described in ERISA section 3(14) and includes a "disqualified person," as defined in Code section 4975(e)(2).

(g) The term "relative" means a relative as that term is defined in ERISA section 3(15), or a brother, a sister, or a spouse of a brother or sister.

(h) A QPAM is "related" to a party in interest for purposes of section I(d) of this exemption if the party in interest (or a person controlling, or controlled by, the party in interest) owns a five percent or more interest in the QPAM or if the QPAM (or a person controlling, of controlled by, the QPAM) owns a five percent of more interest in the party in interest. For purposes of this definition:

(1) The term "interest" means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest. (i) The time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after December 21, 1982, or a renewal that requires the consent of the QPAM occurs on or after December 21, 1982 and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction.

Notwithstanding the foregoing, this exemption shall cease to apply to a transaction exempt by virtue of Part I or Part II at such time as the percentage requirement contained in section I(e) is exceeded, unless no portion of such excess results from an increase in the assets transferred for discretionary management to a QPAM. For this purpose, assets transferred do not include the reinvestment of earnings attributable to those plan assets already under the discretionary management of the QPAM. Nothing in this paragraph shall be construed as exempting a transaction entered into by an investment fund which becomes a transaction described in section 406 of ERISA or section 4975 of the Code while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(j) The term "goods" includes all things which are movable or which are fixtures used by an investment fund but does not include securities, commodities, commodities futures, money, documents, instruments, accounts, chattel paper, contract rights and any other property, tangible or intangible, which, under the relevant facts and circumstances, is held primarily for investment.

(k) For purposes of section V(a) (1) and (2), the term "equity capital" means stock (common and preferred), surplus, undivided profits, contingency reserves and other capital reserves.

(l) For purposes of section V(a)(3), the term "net worth" means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves.

(m) For purposes of section V(a)(4), the term "Shareholders' or partners' equity" means the equity shown in the most recent balance sheet prepared within the two years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

Signed at Washington, D.C. this 8th day of March, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-6707 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 84-15; Exemption Application No. D-4230 et al.]

Grant of Individual Exemptions; East Side Electric Supply, Inc. Pension Plan and Retirement Trust, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This documents contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

East Side Electric Supply, Inc. Pension Plan and Retirement Trust (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 84-15; Exemption Application No. D-4230]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed purchase by the Plan of certain unimproved real property (the Land) from Strupp Brothers Investments (the Partnership), a party in interest with respect to the Plan, provided that the purchase price of the Land is not more than its fair market value on the date of transfer; (2) the proposed ground lease (the Ground Lease) of the Land by the Plan to the Partnership; (3) the subsequent sublease of the Land by the Partnership to East Side Electric Supply, Inc: (the Employer), the sponsor of the Plan; (4) the possible resale of the Land by the Plan to the Partnership pursuant to a put option in the Ground Lease exercisable solely by the Plan; and (5) the personal guarantees by the partners in the Partnership of the rental payments due the Plan under the Ground Lease as well as any payments that may be due the Plan under the Plan's right to exercise the put option in the Ground Lease; provided that the terms and conditions of such transactions are at least as favorable to the Plan as those obtainable by the Plan in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 960.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8982. (This is not a toll-free number.)

[Prohibited Transaction Exemption 84-16; Exemption Application No. D-4272]

Supplemental Pension Plan of Consolidated Rail Corporation (the Plan) Located in Philadelphia, Pennsylvania

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section

4975(c)(1)(A) through (D) of the Code, shall not apply to the cash sale on January 18, 1983 to the Consolidated Rail Corporation (Conrail), a party in interest with respect to the Plan, by the Penn Central Pension Fund Liquidating Account (the Liquidating Account), which holds certain Plan assets, of all shares owned by the Liquidating Account of common stock of the Pennsylvania Car Leasing Company and the transfer of certain related assets between Conrail and the Liquidating Account pursuant to the terms of a stock purchase agreement dated January 11, 1983, described in the notice of proposed exemption, provided the net amount received by the Liquidating Account was no less than the fair market value of the assets it transferred to Conrail on the dates of such transfer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 14, 1983 at 48 FR 46884.

Effective Date: This exemption is effective January 11, 1983.

Written Comments: The Department has received 87 written comments from Plan participants and beneficiaries. Four of the comments expressed disapproval of the proposed exemption but offered no reason for the disapproval. Six of the comments expressed approval of the proposed exemption. The remaining comments indicated concern that the exempted transaction would reduce or eliminate benefits payable under the Plan. Conrail's representative has explicitly advised that Conrail believes the transaction will have no adverse effect upon benefits payable under the Plan. Further, Girard Bank, the Plan trustee, has explicitly represented that the transaction is in the interest, and protective of the rights, of the Plan and its participants and beneficiaries, and that the transaction will have no adverse effect upon the payment of benefits under the Plan. The Department has considered this information and has determined, on the basis of the entire record in this case, that the exemption should be granted as proposed.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 84-17; Exemption Application No. D-4335]

National Roofing Industry Pension Plan (the Plan) Located in Miami, Florida

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reasons of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase by the plan of certain real property (the Property) for cash in the amount of $670,000 from the United Union of Roofers, Waterproofers and Allied Workers provided that this amount is not greater than the fair market value of the Property at the time it is purchased by the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 14, 1983 at 48 FR 46891.

Comments and Hearing Request

The Department received one written comment which objected in principle to the granting of the exemption. No requests for a hearing were received. The Department has considered the comment and based on the record taken as a whole has decided to grant the exemption in the form in which it was proposed.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

United Precision Machine & Engineering Company Profit Sharing Plan (the Plan) Located in Salt Lake City, Utah

[Prohibited Transaction Exemption 84-18; Exemption Application No. D-4527]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan by the Plan of $200,000 (the Loan) the United Precision Machine & Engineering Company, the sponsor of the Plan, provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 961.

For Further Information Contact: Mr. David Stander of the Department, telepnone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 8th day of March 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-6709 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-4150 et al.]

Proposed Exemptions; Five Star Chemical Corporation Profit Sharing Retirement Plan, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the

Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Five Star Chemical Corporation Profit Sharing Retirement Plan (the Plan) Located in Oklahoma City, Oklahoma

[Application No. D-4150]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 (c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), 406(b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c) (1) (A) through (E) of the Code shall not apply to the sale by the Plan of certain real property (the Real Property) to Five Star Chemical Corporation (the Employer) for the cash consideration of $225,000, provided the price paid for the Real Property is not less than fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The plan is a profit sharing plan with 15 participants and total assets of $530,312 as of January 31, 1983. The trustees of the Plan (the Trustees) are Messrs. Dale Kessel, John B. Curtis, Kenneth W. Cutler and Ms. Thelma J. Kutej. The Trustees are employees of the Employer corporation and with the exception of Ms. Kutej,. they are its principal shareholders. Plan management and investment decisions are determined by a majority vote of the Trustees. The Empolyer is engaged in the manufacture of detergent chemicals that are used to spray oil rigs.

2. Since 1971, the Plan has leased the Real Property located at 4000 South Prospect, Oklahoma City, Oklahoma to the Employer under the terms of a triple net lease (the Lease).[1] The Real Property consists of land (the Land) and a building (the Building) situated thereon. The Plan purchased the Land from Messrs. Jacob Rathmell and J.E. Goodson, who are unrelated parties, for $30,812. The Building was constructed in 1974 by Aztec Incorporated, an unrelated entity, for $151,151. To finance the cost of construction, the Plan obtained a first mortgage loan from Friendly National Bank (Friendly) of Oklahoma City, Oklahoma. Friendly is an unrelated entity.

From the inception of the Lease until 1976, the Employer paid the plan a monthly rental of $1,400. In 1976, the monthly rental was increased to $1,800. This rental rate has semained in effect.

3. On June 1, 1982, the Plan sold the Real Property to the Employer for a sales price of $222,000. The sales price was based on an independent appraisal of the Real Property as determined on October 8, 1981 by Mr. Lyndon T. Grant, IFAS of Grant and Associates located in Midwest City, Oklahoma. The Employer made a downpayment of $2,789 and assumed the $90,210 balance due of the first mortgage loan owed to Friendly. The Employer also gave the Plan a second mortgage note in the amount of $129,000. The note provided for 180 equal monthly payments of $1,805 and carried interset at the rate of 15 percent per annum.

4. On August 9, 1982, the Department orally advised the applicant that an administrative exemption would in all likelihood not be granted for the sale of the Real Property because independent safeguards that would have been protective of the plan had not been set in place before the sale was consummated. Upon being so advised, the Employer withdrew the exemption request. On September 15, 1982, the Employer restored the Real Property to the Plan. The Employer has represented that the rescission of the transaction constituted a "correction" pursuanct of Foundation Excise Tax Regulation 53.4941(e)-1(c).[2]

5. On January 24, 1983, the Employer reopened the exemption request in order to reacquire the Real Property from the Plan. The Real Property was appraised at $225,000 on April 12, 1983, by Mr. Dick Workman, an unrelated realtor from Oklahoma City, Oklahoma. To effectuate the sale, the Employer will assume the outstanding balance due on the first mortgage owed by the Plan to Friendly.[3] This amount was $79,313 as of

[1] The exemption application states that the Lease represents a legally binding contract entered into in 1971 and as such, it conforms with the requirements of section 414 (c) (2) of the Act. In this proposed exemption the Department expresses no opinion as to the applicability of section 414 (c) (2) to the Lease.

[2] Foundation Excise Tax Regulation section 53.4941(e)-1(c) applies to section 4975 prohibited transactions by reason of Temporary Pension Excise Tax Regulation § 141.4975-13. Under § 53.4941(e)-1(c)(1) of the Foundation Excise Tax Regulations, any correction pursuant to Code section 4941 is not an act of self-dealing and therefore not a prohibited transaction under section 4975 by reason of the § 141.4975-13 temporary regulation.

Similarly, the Department has determined that a correction of a prohibited transaction is not itself a prohibited transaction under section 406 of the Act, provided that the correction complies with the § 141.4975-13 temporary regulation.

[3] By letter dated July 28, 1983, Friendly has indicated that it agrees to the Employer's assumption of the first mortgage and the release of the Plan of its liability under the note.

July 28, 1983. In addition, the Employer will tender the remaining amount of the purchase price in cash. The Plan will not be required to pay any real estate fes or commissions in connection with the transaction.

The Employer has stated that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the deferred payment arrangement in the prior transaction as described in 3 above, and the taxes applicable by reason of the leasing of the Real Property after the rescission of the prior transaction, within 60 days of the publication of the grant of this exemption in the **Federal Register.**

6. In summary, it is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction of which most of the acquisition price for the Real Property will be paid by the Employer in cash and the balance by the Employer's assumption of a first mortgage owed by the Plan to Friendly; (b) the sales price for the Real Property has been determined by an independent appraiser; (c) the Plan will not incur any real estate commissions or fees in connection with the sale; and (d) the Employer has stated that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the deferred payment arrangement and the leasing of the Real Property following the rescission of the prior transaction, within 60 days of the publication of the grant of the exemption in the **Federal Register.**

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Drs. Maunder, Pincus, Schissel and Barricks Keogh Pension Plan (the Plan) Located in Minneapolis, Minnesota

[Application No. D–4672]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by Dr. Robert L. Barricks (Dr. Barricks) to his individually directed account in the Plan of a $23,530 interest (the Interest) in a Contract for Deed on property located at 2910 Cavell Avenue, S., St. Louie Park, Minnesota (the Property), for $20,000 in cash, provided the purchase price does not exceed the fair market value of the Interest price does exceed the fair market value of the Interest on the date of purchase. Dr. Barricks is an owner-employee with respect to the Plan as defined in section 401(c)(3) of the Code, due to his 21.667% ownership of Drs. Maunder, Pincus, Schissel and Barricks, a medical partnership which is the Plan sponsor. Section 408(d)(3) of Title I of the Employee Retirement Income Security Act of 1974 (the Act) provides that the Department lacks authority to grant an exemption under section 408(a) of the Act for the purchase of any property by a plan from an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the purchase of the Interest. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a defined contribution Keogh plan with individually directed accounts and approximately 9 participants. As of October 1, 1983, Dr. Barricks had assets of slightly more than $80,000 in his account (the Account) in the Plan. Dr. Barricks is fully vested in the Account.

2. Dr. Barricks owns 21.667% of a medical partnership in which there are 4 senior partners, all of whom own 21.667%, and one junior partner who owns 13.333%. The medical partnership is the Plan sponsor.

3. On November 29, 1982, Dr. Barricks sold the Property which was his previous residence, to unrelated partiess for $200,000. The purchasers now owe $120,000 on a fixed rate bank mortgage, and owe $37,000 to Dr. Barricks on a Contract for Deed which was formed at the time of the sale of the Property. Dr. Barricks represents that under the Contract for Deed, his interests in the Property are first in line, ahead of the bank's interests.

4. Dr. Barricks now wishes to transfer a $23,530 interest in the Contract for Deed to the Account in exchange for cash. The Contract pays 12% interest yearly and has a 7 year ballon. Mr. Bill Rieckhoff, an independent realtor in Minneapolis, Minnesota, has appraised the Property as having a fair market value of between $205,000 and $215,000 as of September 16, 1983. All the cash for the purchase will come from the Account; none of the other funds in the Plan will be used. There will be no fees or commissions paid in connection with the purchase.

5. The purchase price to the Account for the Interest will be $20,000. Mr Irvin E. Bergsagel, an independent party in Plymouth, Minnesota, who has been actively involved for the past 13 years in purchasing Contracts for Deed in that area, represents that he would offer to purchase the subject Contract for a 15% discount.

6. In summary, the applicant represents that the proposed purchase satisfies the criteria contained in section 4975(c)(2) of the Code because: (1) The proposed purchase involves less than 25% of Dr. Barricks' vested interest under the Plan; (2) the Account will not be charged with any fes and expenses incurred in effecting the purchase; (3) the only Plan assets involved in the proposed purchase are those credited to Dr. Barricks' individually directed Account under the Plan, so that he is the only Plan participant affected by the proposed transaction; (4) the purchase price to the Account will be that which would be paid by a qualified, independent party; and (5) Dr. Barricks believes that the proposed purchase is in the best interest of his Account and desires that the purchase be effected.

Notice to interested Persons: Since the only Plan assets involved in the proposed transaction are those in Dr. Barricks' own individually directed account under the Plan and since he is the only participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Arizona State Trailer Sales, Inc. Profit Sharing Plan (the Profit Sharing Plan) and Arizona State Trailer Sales, Inc. Pension Plan (the Pension Plan), (collectively, the Plans) Located in Mesa, Arizona

[Application No. D.–4762]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of

section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) Loans (the Loans) by the Plans of no more than 25% of either of the Plans' assets to Arizona State Trailer Sales, Inc. (the Employer), provided that the terms and conditions of the Loans are at least as favorable to the Plans as those obtainable in an arm's length transaction with as unrelated party; and (2) the guarantee of repayment of the Loans by Roy L. Sampson (Mr. Sampson), the principal shareholder of the Employer.

Temporary Nature of the Exemption: The exemption, if granted, will be temporary in nature and will expire five years from the date of the grant with respect to the making of Loans by the Plans to the Employer. Subsequent to the expiration of this exemption, the Plans may hold the Loans provided they originated during the five year period.

Summary of Facts and Representations

1. The Pension Plan and the Profit Sharing Plan each provide benefits to approximately 40 participants. As of November 30, 1982, the Pension Plan had total assets of $205,044 and the Profit Sharing Plan had total assets of $374,049. The trustee of the Plans is Robert E. Rhue, CPA. Investment decisions for the Plans, which are commingled for investment purposes, are made by the advisory committee (the Advisory Committee). The members of the advisory Committee include Mr. Sampson, Roy L. Sampson, Jr., Robert Cullen, Betty Lou Cullen amd Debra S. Brunaforte, relatives of Mr. Sampson.

2. The employer is in the business of selling mobile homes, travel trailers and recreational vehicles. The employer has been conducting business since 1950 and has three locations in the Phoenix metropolitan area.

3. As a method of financing its business, the employer engages in floor-planning arrangements. This arrangement entails the Employer obtaining third party financing for the purchase of mobile homes, travel trailers and recreational vehicles which are subsequently sold to he Employer's customers. The financing is secured by a security agreement in the name of the third party financier and covers the piece of equipment financed.

4. The applicant seeks an exemption to allow the Plans, for a period of five years, to make Loans to the Employer on a recuring basis. The proceeds of the Loans will be used by the employer to finance purchases of new mobile homes and new recreational vehicles. This type of financing arrangement currently exists between the Employer and the First Interstate Bank of Arizona, N.A. (the Bank). The Plans will make the Loans on the same basis as the Bank with the exception that the Plans will receive a higher interest rate on the Loans and greater security (as discussed below) than the Bank receives. No more than 25% of either of the Plans' assets will be loaned to the Employer pursuant to the floor-planning arrangement. In addition, the Plans will not liquidate any asset having a greater rate of return than that of a proposed Loan in order to fund said Loan.

5. The Loans will be further subject to the following conditions: (a) Each Loan will be evidenced by a promissory note providing for the repayment of principal and interest over a period of 270 days when the purchase of a recreational vehicle is financed and over a one year period when the purchase of a mobile home is financed; (b) the interest rate on the Loans will be 2% above the Bank's prevailing prime rate, to be adjusted daily, with a minimum interest rate of 12% (under its current floor-planning arrangement with the Employer, the Bank charges 1¾% above the Bank's prime rate, as adjusted daily, on new mobile homes and 1½% above the prime rate on new recreational vehicles); (c) interest accruing on each Loan will be repaid monthly and adjusted by the Bank on the day the Bank announces a change in the prime rate. With respect to principal payments on a mobile home Loan, there will be a principal payment of 10% of the amount financed at the end of 180 days from the date of the Loan; an additional 10% at the end of 270 days; and the balance of 80% at the end of one year from the date of the Loan. With respect to principal payments on a recreational vehicle Loan, there will be a principal payment of 10% of the amount financed at the end of 90 days from the date of the Loan; and full payment of the remaining 90% of the amount financed at the end of 270 days from the date of the Loan. In the event of a sale of a mobile home or recreational vehicle prior to the expiration of the financing periods as specified above, the remaining principal will be paid at the time of sale. These repayment terms are identical to those currently used by the Bank in its floor-planning arrangement with the Employer; (d) each Loan will be secured by a first lien on the inventory being purchased pursuant to the floor planning arrangement. A UCC financing statement will be filed and periodically updated to secure the Plans' security interest in the collateral. As additional security, Mr. Sampson will record a second deed of trust, on behalf of the Plans, on a parcel of real property (the Real Property) which he owns. On July 23, 1983, Mr. Frank R. Aceto, ARA, CRA, apraised the Real Property and determined that it had a fair market value of $596,600. The Real Property is encumbered by a $145,000 first deed of trust. Thus, Mr. Sampson's equity in the Real Property is $451,600; (e) as further security, repayment of the Loans will be guaranteed by Mr. Sampson, who, according to the Bank, had an estimated net worth as of December 31, 1982 of $393,000; (f) at all times, the fair market value of the collateral will be at least 150% of the outstanding balances of the Loans; (g) the Employer will maintain insurance on the Real Property, the mobile homes and the recreational vehicles and designate the Plans as beneficiaries of the insurance policies.

6. The Bank has agreed to serve as independent fiduciary for the Loans. The Bank has a business relationship with the Employer and its shareholders and officers. Specifically, the Employer maintains a commercial account with the Bank and the Employer's officers and directors maintain personal accounts with the Bank. However, all such accounts, when aggregated, amount to far less than 1% of the Bank's total assets. The Bank represents that the proposed floor-planning arrangement will be structured on identical terms (with the exception of interest rates) in accordance with standard floor-planning arrangements financed by the Bank.

7. The Bank represents that it has reviewed the specific terms and conditions of the proposed floor-planning arrangement and that in addition the Bank has: (1) Examined the overall investment portfolios of the Plans; (2) considered the cash-flow needs of the Plans; (3) given consideration to the necessity of a sale of any of the Plans' assets; (4) examined the diversification of the Plans' assets in light of the proposed Loan investments; and (5) reviewed the terms of the proposed Loans as such terms comport with the Plans' investment scheme. After conducting said review the Bank has concluded that the proposed Loans are beneficial to the Plans and protective of the rights of the participants and beneficiaries because the interest rate is generally greater than the Plans could obtain from other secure investments. The Bank further states that it will analyze each Loan made to the Employer pursuant to the floor-planning arrangement and ensure that each such Loan is beneficial to the Plans and the Plans' participants.

8. In addition, the Bank represents that it will oversee all transactions covered by the proposed exemption and that it will take all necessary action to protect the interests of the Plans in the

event that any payment becomes delinquent. The Bank further represents that, on behalf of the Plans, the Bank will inspect the inventory pruchased by the Employer pursuant to the floor-planning arrangement. The Bank will perform all procedures and inspections on behalf of the Plans that it currently performs on its own behalf pursuant to its current floor-planning arrangement with the Employer.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Loans will be approved and monitored by the Bank as an independent fiduciary for the Plans; (b) the Loans will be secured at all times by first security interests in the inventory purchased with the proceeds of the Loans and by a second deed of trust in the Real Property; (c) the collateral will be monitored by the Bank and it will have a value of at least 150% of the outstanding balances of the Loans; and (d) Mr. Sampson will personally guarantee the Loans.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 8th day of March 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-6708 Filed 3-12-84; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Closed Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) will be held on April 3, 1984. The business session of the meeting will be held at the Department of State in the Loy Henderson Conference Room, 2201 C Street, NW., Washington, DC. An executive session of the meeting will be held in the Indian Treaty Room of the Old Executive Office Building, Washington, DC.

Business Session:
- —Call to Order
- —Welcome from State Department
- —Government response to NSTAC II Recommendations
- —Report from Industry
- —NSTAC III Deliberations
- —Closing Remarks
- —Adjournment

Executive Session:
- —Call to Order
- —Discussion with Government Officials
- —NSTAC Closing Discussion
- —Adjournment

Due to the requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202-692-9274) or write the Manager, National Communications System, Washington, DC 20305.

Joseph C. Wheeler,

Colonel, USAF, Assistant Deputy, National Communications System.

[FR Doc. 84-6701 Filed 3-12-84; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL SCIENCE FOUNDATION

Ocean Drilling Program; Intent To Prepare an Environmental Impact Statement

Summary: Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the National Science Foundation (NSF) will prepare a draft Environmental Impact Statement (EIS) on a program of scientific deep-ocean drilling proposed for the next decade or more. This program envisions expanded efforts in scientific deep-ocean drilling and research to explore the earth's crust beneath the oceans and to provide a geological framework for a better unerstanding of plate tectonic theory. The program will be global in scope, and proposes to extend drilling technology for scientific purposes into high latitudes including Antarctic Seas and onto continental margins. No decision has been made to drill in Antarctic Seas or to drill with a riser.

Possible alternatives to the proposed action are: delay or exclude implementation of drilling plans pertaining to selective sites, exclude drilling in sensitive areas, and delay or exclude implementation or riser drilling.

Ocean drilling is a complicated process which must pass through several phases of planning before an annual program plan is submitted to NSF for approval. Major considerations in this planning process are: selection and approval of scientific objectives and drilling sites; regional and specific geophysical and geologic site surveys; safety aspects (utilizing safety experts); probability of encountering hydrocarbons; different types of drilling processes; available scientific and engineering expertise; long- and short-term effects of the program; international implications and cooperative endeavors with other countries; actual and/or potential environmental impacts; and appropriate technological advances which will facilitate drilling.

NSF has an existing EIS on the International Phase of Ocean Drilling (IPOD) of the Deep Sea Drilling Project (DSDP). Initial drilling operations of ODP will not differ significantly from

those carried out in IPOD and addressed in the IPOD EIS. The more complicated aspects of riser drilling and drilling in high latitudes and Antarctic Seas were not covered by that EIS, and it is these aspects, proposed for future drilling, that will be specifically addressed.

Technical expertise, both in Federal and private sectors, including universities, will be utilized via the scoping process and through the external, impartial contractor who will prepare the draft EIS for approval by NSF.

Date: All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration during the preparation of the draft EIS should contact the NSF by May 15, 1984.

Address and Point of Contact: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Attn: Mr. T.N. Cooley, (202/357–7837).

Albert L. Bridgewater,

Acting Assistant Director, Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation.

[FR Doc. 84–6683 Filed 3–12–84; 8:45 am]

BILLING CODE 7510–01–M

Advisory Panel for PCM Subpanel on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Metabolic Biology of the Advisory Panel for Physiology, Cellular & Molecular Biology

Date and Time: March 29, 30, 31, 1984; 9:00–5:00 p.m.

Place: Neyman Room, Evans Hall, University of California, Berkeley, CA 94720

Type of Meeting: Closed

Contact person: Dr. William van B. Robertson, Program Director, Metabolic Biology Program, Room 325, National Science Foundation, Wash., DC 20550, Telephone (202) 357–7987

Purpose of subpanel: To provide advice and recommendations concerning support for research in metabolic biology

Agenda: To review and evaluate research proposals as part of the selection process for awards

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF on July 6, 1979

Dated: March 8, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–6738 Filed 3–12–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Co. (Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2); Modification of Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Baltimore Gas and Electric Company (the licensee) is the holder of Facility Operating License Nos. DPR–53 and DPR–69 which authorize the operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, at steady-state power levels not in excess of 2700 megawatts thermal for each unit. The facility comprises two pressurized water reactors located at the licensee's site in Calvert County, Maryland.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82–05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. One such item scheduled for completion during this period was II.F.1.1 which requires installation of noble gas steam effluent monitors. This letter is hereby incorporated by reference. In this letter each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committee to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to the Generic Letter 82–05 by letter dated April 19, 1982. By letters dated October 12, 1982 and February 18, 1983 the licensee provided an updated schedule for completion of items identified by Generic Letter 82–05, including Item II.F.1.1. In these submittals, the licensee confirmed that some of the items identified in the generic letters had been completed and made firm commitments to complete the remainder. In this regard, the licensee's letter of February 18, 1983 requested a completion date of March 1, 1984 for Item II.F.1.1.

On March 16, 1983, the NRC issued an Order which incorporated a required completion date of March 1, 1984 for Item II.F.1.1. On February 3, 1984, the licensee informed the NRC that they could not meet the required completion date of March 1, 1984 for Item II.F.1.1 due to continued problems with the equipment vendor. The February 3, 1984 submittal requested revised II.F.1.1 completion dates of June 30, 1985 for Unit 1 December 31, 1985 for Unit 2.

The licensee has indicated in their letters of October 12, 1982, February 18, 1983, and February 3, 1984 that delays associated with implementation of Item II.F.1.1 are related to the inability of the equipment vendor to deliver adequately designed, reliable equipment. The licensee has made repeated, diligent attempts to remedy these equipment problems. The proposed revised completion dates of June 30, 1985 for Unit 1 and December 31, 1985 for Unit 2 would allow procurement of equipment from other sources and would allow adequate time for installation and testing.

The staff has determined that the modifications required to be made do not presently include the replacement of the shielded detector or triaxial cable,

located in the main steam penetration room. The electrical modifications are scheduled to be completed over the next 7–8 month time frame. This finding has been confirmed by the licensee in their letter dated March 1, 1984. Based upon satisfactory results of preoperational testing of the noble gas steam effluent monitor, the licensee will be able to delcare the system operational by December 31, 1984. Should an interface compatibility problem exist between the existing shielded detector and/or triaxial cable the licensee will be permitted to replace the shielded detector and/or triaxial cable at the next outage of sufficient duration after December 31, 1984.

In the interim, until final operability of equipment necessary to comply with Item II.F.1.1, the licensee has committed to utilize a system using dedicated portable instrumentation, placed in operation to meet the short term requirements of Item II.F.1.1 on January 1, 1980. In addition, the licensee will continue to pursue the repair and return to operation of equipment purchased from the vendor which is currently at the vendor's facilities.

We find, based on the above evaluation, that 1) the licensee has taken corrective actions regarding the delay and has made a responsible effort to implement Item II.F.1.1. of NUREG–0737; 2) there is good cause for the delay; and 3) as noted above, interim compensatory measures have been provided.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that:

The March 1, 1984 completion date specified in the March 16, 1983 Order for Item II.F.1.1 of NUREG–0737, is extended to no later than December 31, 1984 for Units 1 and 2. In the event that the existing monitoring and/or triaxial cable is not compatible with the new electric hardware, the licensee will be permitted to replace these components at the next scheduled outage of sufficient duration.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an Order issued following further proceedings on this Order.

Dated at Bethesda, Maryland this March 2, 1984.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Division of Licensing.

[FR Doc. 84-6695 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–31 and DPR–41, issued to Florida Power and Light Company (the licensee), for operation of the Turkey Point Plant Units Nos. 3 and 4 located in Dade County, Florida.

The request for amendments was initially noticed August 23, 1983 (48 FR 38403). This notice includes requested changes in a subsequent submittal dated September 26, 1983. The proposed amendments would provide new Technical Specification provisions which would define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. These provisions would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. Moreover, some of the Technical Specifications would involve administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the need for the Technical Specifications described above to be proposed. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission's requirements related to "as low as is reasonably achievable."

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By April 12, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involve no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union operator at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Branch Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Suite 1214, Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for the amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 2nd day of March 1984.

For the Nuclear Regulatory Commission.

Steven A.Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84–6697 Filed 3–12–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-389]

Florida Power & Light Co., Orlando Utilities Commission of the City of Orlando, Florida, and Florida Municipal Power Agency; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration, Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power and Light Company, et al., (the licensee), for operation of the St. Lucie Plant, Unit No. 2 located in St. Lucie County, Florida.

The amendment would modify the existing technical specification requirement for the initial inservice inspection for two mechanical snubbers to permit inspection at the first refueling outage in accordance with the licensee's application for amendment dated February 24, 1984.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

At present, the technical specifications require a visual inspection of all safety-related snubbers between 4 and 10 months after commencing power operation. The purpose of the visual inspection is to identify obvious damage to snubbers.

The licensee requests that this visual inspection be delayed until the first refueling for two safety-related snubbers on the containment spray system. Present operation would require the plant to be brought to cold shutdown on or before April 13, 1984 to inspect these two snubbers.

The required inspection has been done on 321 mechanical (and 20 hydraulic) snubbers with no inoperable snubbers and no significant problems found. This is the total required snubber inspection except for the two inaccessible snubbers (#129 and #130). Snubbers are required to perform their safety function during a seismic event. The St. Lucie site is located in a region of infrequent and minor seismic activity.

The Uniform Building Code designates the site vicinity as Zone 0 on the map entitled, "Map of the United States Showing Zones of Approximate Equal Seismic Probability." The US Coast and Geodetic Survey indicates Zone 0 as an area of no earthquake damage. This portion of Florida is in a zone where the seismic frequency approaches zero. Furthermore, an examination of an epicentral map shows a broad segment of south central Florida in which possible epicenters are entirely absent. The St. Lucie site is in the middle of this region.

The two snubbers (#129 and #130) are located high in the shield building annulus and could not be reached during a recent outage when the other snubbers were inspected without breaking shield building integrity or installation of major scaffolding. These snubbers are on the containment spray system. Snubber #130 was examined by means of searchlight and binoculars without any indication of problems. Snubber #129 could not be examined in this manner due to line of sight obstructions.

The licensee has visually inspected all other snubbers against the criteria of Technical Specification 4.7.9(d) and found no discrepancies. The two snubbers in question are on lines in standby service that are not subject to vibration or thermal expension. Additionally, they are inside the shield building so that they are not subject to either weather or plant related environmental effects. This provides additional confidence that the two remaining inaccessible snubbers will function satisfactorily in the interim period.

Based on the above discussion and considering the requirement of 10 CFR 50.92(c) the staff has concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. On this basis, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By April 12, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be

litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence an cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–600 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold R. Reis, Esq., Newman and Holtzinger P.C., 1025 Connecticut Avenue, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland this 8th day of March, 1984.

For the Nuclear Regulatory Commission.

James R. Miller, Chief,

Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 84-6696 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Unit 1); Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated February 2, 1984, the San Luis Obispo Mothers for Peace, through the Government Accountability Project (GAP) as their counsel, have requested that the Commission not authorize reinstatement of the low power operating license for Diablo Canyon Unit 1 until the completion of an independent reinspection of all safety-related construction in the plant, and independent audit of design quality assurance, and an independent management audit and investigation to determine the licensee's character and competence to operate the plant. The petitioner bases its request on numerous alleged violations of NRC requirements pertaining to the design and construction of the plant.

The petition has been referred to the Office of Nuclear Reactor Regulation for consideration under 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time. Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the Diablo Canyon Nuclear Power Plant at California Polytechnic State University, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 2nd day of March 1984.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-6698 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–43, issued to Wisconsin Public Service Corporation (the licensee), for operation of the Kewaunee Nuclear Power Plant located in Kewaunee County, Wisconsin. The licensee's application for amendment is dated February 22, 1984.

The proposed amendment would revise the Technical Specifications involving undervoltage trip setpoints of the primary and second level undervoltage relays from 87.5% to 85.0% and from 95.0% to 92.5%, respectively. The technical basis for providing short term operation of safeguard motors at or above 80% of nameplate voltage, and providing prolonged operation of safeguard motors at or above 90% of nameplate voltage remains unchanged.

The licensee states that this proposed change is possible, without relaxation of the basis for the set-points, because:

(1) The calculation method of determinig voltage drops within the ac distribution system has been refined, utilizing computer load-flow calculations.

(2) The taps on the 480V Bus 1–51 and 1–61 Station Service Transformers will be changed from unity to provide a 2½% voltage boost to their secondary side.

The basic methodology used in this analysis remains unchanged from that which formed the basis for the original second level setpoint and which was previously accepted by the NRC. The optimization process used to allow lowering of the setpoints is in accordance with Branch Technical Position P5B–1, item B.3. The revised setpoint is desirable because it increases the probability that an offsite source of power is available by increasing the margin to the setpoint.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The change related to the reduction in undervoltage trip setpoints appears to fall within the category of example (vi) of a no significant hazards consideration which may in some way reduce a safety margin but where the results of the change are clearly within all acceptable criteria. The new setpoints were derived using previously approved methodology.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By April 12, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceedings as to which petitioner wishes to intervene. Any person who has filed a petition for leave to invervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to this first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call

to Western Union operator at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Branch Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. S. E. Keane, Foley and Lardner, First Wisconsin Center, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for the amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Bethesda, Maryland, this 3rd day of March 1984.

For the Nuclear Regulatory Commission.

David Wigginton,

Acting Branch Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84-6699 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability; NUREG-0927, "Evaluation of Water Hammer in Nuclear Power Plants-Technical Findings Relevant to Unresolved Safety Issue A-1,"; Standard Review Plan (SRP) Sections 3.9.3, 3.9.4, 5.4.6, 5.4.7, 6.3, 9.2.1, 9.2.2, 10.3, and 10.4.7 (NUREG-0800) and the Supporting Value/Impact Analysis

The U.S. Nuclear Regulatory Commission (NRC) staff has prepared the following documents: NUREG-0927 entitled, "Evaluation of Water Hammer in Nuclear Power Plants-Technical Findings Relevant to Unresolved Safety Issue A-1;" revisions to Standard Review Plan Sections 3.9.3, Rev. 1, "ASME Code Class 1, 2 and 3 Components Supports and Core Support Structures;" 3.9.4, Rev. 2, "Control Rod Drive Systems;" 5.4.6, Rev. 3, "Reactor Core Isolation Cooling System (BWR);" 5.4.7, Rev. 3, "Residual Heat Removal (RHR) System;" 6.3, Rev. 2, "Emergency Core Cooling System;" 9.2.1, Rev. 3, "Station Service Water System;" 9.2.2, Rev. 2, "Reactor Auxiliary Cooling Water Systems;" 10.3, Rev. 3, "Main Steam Supply System;" 10.4.7, Rev. 3, "Condensate and Feedwater System;" and the supporting Regulatory Analysis (NUREG-0993) which are included in the final issuance package.

These documents serve as the staff's technical resolution of the NRC's Task A-1, "Water Hammer." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

NUREG-0927 provides the staff's technical evaluation of reported water hammer occurrences, attendant damage, underlying causes and corrective actions taken.

All changes to the SRP Sections resulting from the resolution of this Unresolved Safety Issue and any editorial changes are identified by a line in the margin of the revised SRP Section. NUREG-0993 contains the staff's Regultory Analysis of actions being taken.

Comments were solicited from interested organizations, groups and individuals through a **Federal Register** notice of availability for comment in May 1983. The staff has evaluated the comments received, and addressed them, as appropriate, in the final documents. As a result of comments received, two SRP Sections (3.9.3 and 3.9.4) not previously published "for comment" have also been revised.

Copies of the documents will be available after April 15, 1984. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Dated at Bethesda, Maryland, this 6th day of March, 1984.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-6700 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Postponed

The ACRS Subcommittee on Class-9 Accidents scheduled for March 30, 1984, Room 1046, at 1717 H Street, NW., Washington, DC has been postponed indefinitely. Notice of this meeting was published February 14, 1984 (49 FR 5704).

Dated: March 8, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-6703 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on March 15–17, 1984, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on February 29, 1984. This revision reflects changes resulting form cancellation of three items and rescheduling of others, and the addition of a closed session to discuss activities of ACRS members.

The agenda for the subject meeting will be as follows:

Thursday, March 15, 1984

8:30 A.M.–8:45 A.M.: Chairman's Report (Open)—The ACRS Chairman will report briefly to the Committee regarding items of current interest.

8:45 A.M.–12:00 Noon: Quality Assurance/Quality Control Initiatives (Closed)—The Committee members will hear and discuss a report from the NRC regarding a proposed report to the United States Congress on proposed NRC Quality Assurance/Quality Control Initiatives required by Pub. L. 97-415, NRC Authorization Act for FY 1982-83.

This portion of the meeting will be closed to discuss information the premature release of which would be likely to significantly frustrate implementation of proposed agency action.

1:00 P.M.–2:00 P.M.: Probabilistic Risk Assessment (Open)—The members will

hear and discuss a report by representatives of the NRC Staff regarding NUREG–1050 (Draft), Probabilistic Risk Assessment (PRA): Status Report for Regulatory Application.

2:00 P.M.–3:00 P.M.: Containment Performance Guidelines (Open)—The Committee members will hear and discuss a report by representatives of the NRC Staff regarding a proposed Task Action Plan for containment performance guidelines.

3:00 P.M.–4:00 P.M.: Integrity of Primary Coolant System (Open)—The members will hear and discuss a report by representatives of the NRC Staff regarding the status of activities related to primary coolant pipe cracking in boiling water reactors.

4:00 P.M.–5:30 P.M.: Subcommittee Activity (Open)—The members will hear and discuss the reports of cognizant ACS subcommittees regarding the status of designated activities including emergency planning and occupational doses at the TMI nuclear station, risk assessment of the Indian Point Nuclear Station, risk levels associated with regulatory decision making, and a recent Federal emergency field exercise.

Friday, March 16, 1984

8:30 A.M.–12:15 P.M.: Braidwood Station Units 1 & 2 (Open)—The members will meet with representatives of the NRC Staff and the applicant regarding the request for operation of the Braidwood Nuclear Power Station.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility.

1:15 P.M.–2:15 P.M.: ACRS Meeting with NRC Commissioners (Open)—Discuss proposed ACRS comments/position regarding topics to be discussed with the NRC Commissioners at a future meeting related to the NRC Safety Research Program and Budget for FY 1985, QA/QC activities in the regulatory process, and consideration of an NTSB type board for nuclear power plant accidents.

2:15 P.M.–3:00 P.M.: Reactor Operating Experience (Open)—The member will hear a report regarding recent reactor operating experience including the failure of the RHR system to function properly at the Browns Ferry Nuclear Power Station.

3:00 P.M.–4:00 P.M.: Differing Professional Opinion (Closed)—The members will hear and discuss the differing professional opinion of Mr. R. B. A. Licciardo, NRC Staff, regarding the Westinghouse Corporation Safety Parameter Display System. This session will be closed to discuss Proprietary Information applicable to this matter.

4:00 P.M.–4:45 P.M.: NRC Enforcement Policy (Open)—The members will discuss proposed ACRS comments regarding proposed reevaluation of NRC enforcement policy.

4:45 P.M.: Future Agenda (Open)—The members will discuss anticipated subcommittee and proposed full Committee activities.

Saturday, March 17, 1984

8:30 A.M.–12:00 Noon: Preparation of ACRS Reports to the NRC (Open/Closed)—The members of the Committee will discuss proposed reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information, information involved in an adjudicatory proceeding, information provided in confidence by a foreign source, and information the premature release of which would be likely to significantly frustrate the agency in the performance of its statutory function.

12:00 Noon–12:15 P.M.: Activities of ACRS Members (Closed)—The members will discuss the nongovernmental activities of individual ACRS members.

This session will be closed to discuss information the release of which would represent an unwarranted invasion of personal privacy.

1:30 P.M.–2:00 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss ACRS Subcommittee activities in designated areas including occupational exposures and emergency planning at TMI–1.

2:00 P.M.–4:30 P.M.: Preparation of ACRS Reports to NRC (Open/Closed)—The Committee members will complete preparation of and discussion of items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information, information involved in an adjudicatory proceeding, information provided in confidence by a foreign source, and information the premature release of which would be likely to significantly frustrate the agency in the performance of its statutory function.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1983 (48 FR 44291). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552(c)(4)], information involved in an adjudicatory proceeding [5 U.S.C. 552b(c)(10)], information the release of which would represent an unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)], and information the premature release of which would be likely to significantly frustrate the agency in the performance of its function [5 U.S.C. 552b(c)(9)(B)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: March 7, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-6702 Filed 3-12-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is herby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 5, 1984
Thursday, April 12, 1984
Thursday, April 19, 1984
Thursday, April 26, 1984

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary resposibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open sessions with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a concensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415, (202) 632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

March 12, 1984.

[FR Doc. 84-6642 Filed 3-9-84; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision
Rule 15c3-1
No. 270-197

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange commission has submitted for OMB approval a revision of Rule 15c3-1 under the Securities Exchange Act of 1934 (15 U.S.C. 78 (a) *et seq.*), which would in effect conform certain paragraphs of the rule and Appendicies B and D thereto to certain amendments adopted by the Commodity Futures Trading Commission to its net capital rule and financial reporting system.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

March 5, 1984.

[FR Doc. 84-6733 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs.

Revision
Form X-17A-5
No. 270-155

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission has submitted for OMB approval a revision of Form X-17A-5 ("FOCUS Report") under the Securities Exchange Act of 1934 (15 USC 78(a) *et seq.), which would conform the FOCUS Report to certain amendments adopted by the Commodity Futures Trading Commission to its financial reporting system and to net capital rule amendments made by the Securities and Exchange Commission in 1982.*

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

March 5, 1984.

[FR Doc. 84-6734 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13806, (812-5665)]

John Hancock U.S. Government Securities Fund, Inc. and John Hancock Distributors, Inc.; Filing of Application

March 6, 1984.

Notice is hereby given that John Hancock U.S. Government Securities Fund, Inc. (the "Fund"), John Hancock Place, P.O. Box 111, Boston, Massachusetts 02117, a diversified, open-end investment company registered under the Investment Company Act of 1940 (the "Act"), and John Hancock Distributors, Inc., John Hancock Place, P.O. Box 21, Boston, Massachusetts 02117, underwriter for shares of the Fund (collectively known as "Applicants") filed an application on October 3, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission, exempting Applicants, to the extent specified therein, from the provisions of Section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the Rules thereunder for further information as to the provisions which are relevant to a consideration of this application.

The Fund was organized in 1968 by John Hancock Advisers, Inc., an indirect wholly-owned subsidiary of John Hancock Mutual Life Insurance Company ("John Hancock"). John Hancock is a Massachusetts mutual life insurance company. John Hancock Distributors, Inc., a wholly-owned subsidiary of John Hancock Advisers, Inc., has entered into an amended underwriting agreement with the Fund. Applicants state that exemption from

Section 22(d) of the Act is requested to permit funds derived from death claims and matured endowments of fixed dollar policies and from proceeds of variable and universal life insurance policies issued by John Hancock to be applied to the purchase of shares of the Fund within the first 60 days after the date of the check in payment of such insurance at a sales charge equal to one-half the rate otherwise applicable. According to Applicants, under the amended underwriting agreement, the sales charge ranges, as a percentage of the amount invested, from 8.70% to 1.01% depending upon the amount invested (or 8% to 1%, as a percentage of the offering price).

Applicants assert that purchasers of shares of the Fund who apply insurance proceeds of a fixed dollar insurance policy, matured endowment, or a variable or universal life insurance policy to make the purchase of shares of the Fund have paid premiums on such policies that include a sales expenses component larger than the sales charge applicable to the purchase of shares of the Fund. Applicants also state that less selling effort and expense is involved in applying the proceeds of such policies to the purchase of shares of the Fund than in making an initial sale of such shares. Applicants further assert that one-half of the normal sales charge appropriately reflects the selling effort and expense involved.

Applicants submit that the policy underlying Section 22(d) of providing for the orderly distribution of mutual fund shares would not be frustrated by the granting of the requested exemption because the class of people involved is well-defined by factors external to the distribution process such as the availability of certain death benefits. Applicants also submit that the proposed variation in sales load for persons who purchase shares of the Fund with proceeds of insurance policies is consistent with the objective expressed by the Commission in proposed Rule 22d-6. Applicants further submit that the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6741 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13805 (811-2447)]

Lutheran Brotherhood U.S. Government Securities Fund, Inc.; Filing of Application

March 6, 1984.

Notice is hereby given that Lutheran Brotherhood U.S. Government Securities Fund, Inc. ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on January 24, 1984, for an order, pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant states that it was incorporated under the laws of the State of Maryland on December 17, 1973, and that, on December 21, 1973, it registered under the Act, pursuant to Section 8(b) of the Act. Its registration statement, filed under the Securiters Act of 1933, was declared effective on January 31, 1974, and an initial public offering commenced immediately thereafter.

The application states that the Agreement of Merger and the proposed Articles of Merger were authorized by Applicant's board of directors on January 30, 1983, and approved by a majority of its shareholders at a special meeting held on November 18, 1983. Applicant states that it was merged out of existence, pursuant to the applicable laws of the State of Maryland, on November 21, 1983, and, on the same date, shareholders of Applicant received 2,788,316.195 shares of capital stock of Lutheran Brotherhood Income Fund, Inc. ("LBIF") in exchange for 2,654,052.475 shares of capital stock of Applicant.

The application further indicates that Applicant has no assets, debts, or outstanding liabilities remaining, and it is not a party to any litigation or administrative proceeding. Applicant states that it had no security-holders at the time of filing of the application. Applicant further states that within the last 18 months it has not transferred any if its asset to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity other than that necessary to wind-up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 1, 1984, at 5:30 p.m., do so by submitting a written request, setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6740 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-703]

The Wyatt Co.; Application and Opportunity for Hearing

March 7, 1984.

Notice is hereby given that The Wyatt Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "Exchange Act") for an order granting Applicant an exemption from the provisions of Section 12(g) of that Act.

The Application states in part that:

1. In the absence of an exemption, Applicant would be required to register its securities under Section 12(g) of the Exchange Act and comply with Sections 13, 14 and 16 of the Act.

2. Applicant believes that the exemption requested is appropriate in that nearly all of Applicant's equity securities are held by persons engaged in its business and there is no public market for such securities.

For a more detailed statement of the information presented all persons are referred to the Application, which is on file in the Office of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may submit to the Commission in writing, not later than April 2, 1984, his views or any substantial facts bearing on the Application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6739 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20719; File No. SR-NASD-84-4]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Amendments to Article III of the NASD Rules of Fair Practice and to the Code of Procedure for Handling Trade Practice Complaints

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 22, 1984, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of the Substance of the Proposed Rule Change

The Association proposed to amend Article III, Section 30, Appendix A, section 4 of the Rules of Fair Practice by establishing minimum margin requirements for those members who, on an access basis, deal in stock index options listed or traded on a registered national securities exchange or members who display stock index options on the NASDAQ System.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discusses any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed amendments to section 4 of Appendix A is to establish minimum margin requirements for stock index options which are listed or traded on a registered national securities exchange or, in the future, displayed on the NASDAQ System.

The Board of Governors determined that the Association's current margin rule does not given coverage to index options and, due to the proliferation of these products in the marketplace, that appropriate margin requirements were necessary to fill this regulatory void. These proposed amendments will extend coverage to members who deal in such index options on an access basis, i.e., members who are not also members of the exchange whereon the index options are traded. These proposed amendments will also provide future coverage for any index option displayed on the NASDAQ System.

The Board also determined that the amendments mirror the margin requirements of each of the exchanges currently trading index options. Therefore, the proposed amendments would be based on existing exchange rules (C.B.O.E. Rule 24.11 and AMEX Rule 462) and provide for margin based on any market index option to be the option premium plus an additional 10% of the current underlying index value. This will provide adequate credit protection for the applicable member firms. This amount, thereafter, would be decreased by the "out-of-the-money" amount in the case of a call or the "in-the-money" amount in the case of a put. The proposed amendments would also provide special requirements for option contracts on any industry index and would be the equivalent of the margin required to be maintained generally for equities, i.e., 30% of the current index value times the index multiplier. The proposed amendments would also provide for the treatment of special positions in index options.

The statutory basis for the proposed rule change is found in section 15A(b)(2) and (b)(6) of the Securities Exchange Act of 1934 which applies to registered securities associations and requires that the rules of the association be designed to foster cooperation and coordination with persons engaged in regulating, clearing, setting, and processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Association believes that the proposed amendments will further these goals by providing stock index option margin requirements where none previously existed which reflect those currently in place at the national securities exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not result in any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

As noted above, Article III, Section 30 of the Rules of Fair Practice provides that Appendix A of that Section may be amended without recourse to the membership. Thus, no comments were received or solicited.

III. Data of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 6, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6726 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20727; SR-NYSE-84-6]

Filing and Immediate Effectiveness of Amendment to Proposed Rule Change by New York Stock Exchange, Inc.

March 6, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on March 5, 1984, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission an amendment to a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

On January 19, 1984, the NYSE filed with the Commission under Section 19(B)(3)(A) of the Act a proposed rule change (SR-NYSE-84-6) to permit the Exchange to increase its fees to each NYSE member and member organization for regulatory oversight services under NYSE Rule 129 from $0.13 to $0.26 per $1,000 of gross revenues as reported on their FOCUS reports.[1] The proposed rule change provided that the increase would terminate on March 7, 1984 and all increased charges imposed thereunder refunded unless, prior to that date, the Commission approved the proposed increase pursuant to Section 19(b)(2) of the Act.[2] In the instant filing, the NYSE is amending the sunset date by extending it from March 7, 1984 to April 6, 1984.[3] The purpose of the amendment is to permit the Commission to complete its review of the proposed rule change under Section 19(b)(2) of the Act. The NYSE states that the statutory basis for the proposed rule change is section 6(b)(1), 6(b)(4), and 6(b)(5) of the Act.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comment should file six copies thereof with the Secretary of the Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-84-6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6727 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Notice of filing and effectiveness of the proposed rule change was given by issuance of a Commission release (Securities Exchange Act Release No. 20600, February 2, 1984), and by publication in the **Federal Register** (49 FR 4176, February 2, 1984).

[2] The NYSE has also filed the proposed fee increase under section 19(b)(2) of the Act (SR-NYSE-84-7) (Securities Exchange Act Release No. 20601, January 26, 1984; 49 FR 4177; February 2, 1984). On March 5, 1984, the NYSE submitted an amendment to the proposed rule change, similar to the instant amendment, to extend the sunset date from March 7, 1984 to April 6, 1984. As of February 29, 1984, the NYSE has been billing members for regulatory oversight services under the increased rate of $0.26 per $1000 of gross revenues, retroactive to January 1, 1984. This fee increase shall terminate and all increased fees collected thereunder will be refunded to members unless the Commission approves the proposed rule change (SR-NYSE-84-7) pursuant to section 19(b)(2) of the Act prior to April 6, 1984.

[3] In addition, the second and third sentences of paragraph 3 of SR-NYSE-84-6 are amended to read as follows:

"Staffing for FINOP regulatory services will be increased from 153 to 178 by year-end 1984 to permit a minimum of two examiners to be assigned to each audit team, an increase of 16.4% in the FINOPS regulatory area. Additional systems and overhead items will increase direct expenses of Financial and Operational regulatory services from $11.6 million to $14.4 million"

The NYSE also filed an amended Exhibit A including a revised financial summary of revenues, expenses, and net income (loss) for NYSE's Member Firm Regulatory Service Division.

[Release No. 20728 SR-NYSE-84-9]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 6, 1984.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, NY, 10005, submitted on January 23, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, the increase the annual dues for an NYSE electronic access membership [1] from $18,500 to $37,000, effective January 1, 1984.[2]

[1] Article IX, Section 1(c) of the NYSE Constitution provides that an electronic access member, upon payment of its annual dues, is entitled "to maintain electronic or telephonic access to (i) the floor facilities of a member, member firm or member corporation, and (ii) the Designated Order Turnaround System of the Exchange, and (iii) such other automated trading systems of the Exchange as the Board of Directors may determine * * *." There are currently 103 NYSE electronic access members.

[2] The proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act. (File No. SR-NYSE-84-8). The filing under section 19(b)(3)(A) provided that the increase in dues shall terminate on March 7, 1984 unless, prior to that date, the Commission approves the proposed rule change pursuant to section 19(b)(2) of the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20603, January 27, 1984) and by publication in the **Federal Register** with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission received one comment from an electronic access member of the NYSE opposing the proposed rule change.[3] The commentator stated that the increase in dues would impose an undue financial burden on small electronic access member firms, and suggested that the Exchange could better serve the interests of small firms by directly relating the amount paid in electronic access dues to the trading volume that the member executes on the NYSE.[4]

According to statistics included with NYSE's filing, the price of equity seats and annual lease rentals has increased significantly during the last five years. In 1979, the price of a seat ranged from $82,000 to $210,000, with the cost of annual lease rentals ranging from $10,000 to $30,000. In 1983, the price of a seat ranged from $310,000 to $425,000, with the cost of annual lease rentals ranging from $50,000 to $75,000. Over the same time period, the NYSE imposed a single increase in electronic access membership dues from $13,500 charged in 1979 and 1980 to the current rate of $18,500 which was imposed in 1981. Moreover, since 1981, the price of equity seats has increased by approximately 50 percent, while annual electronic access membership dues have remained unchanged.

In view of such increases in equity sale and lease prices, the Commission does not view the proposed increase in electronic access membership dues as excessive. The proposed increase in electronic access membership dues is, in fact, consistent with the increased value over the past five years of alternative forms of access to the Exchange, such as equity seats and annual lease rentals as determined in negotiations between purchasers and sellers and lessors and lessees. The Commission does not view as more reasonable a fee, such as that proposed by the commentator, based on a per share charge for the shares executed on the NYSE, in addition to a flat fee. The Commission notes that dues currently imposed on both equity and physical access members under Article X, Section 1 of the NYSE Constitution are not tied to the trading volume generated by the member. The proposed charges are thus consistent with the membership dues structure for other member classes.[5]

The Commission finds therefore that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the proposed amendment conforms to the requirement of section 6 and the rules and regulations thereunder, and constitutes an equitable allocation of reasonable dues and fees among its members pursuant to section 6(b)(4) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6728 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[3] *See* letter from Patterson Branch, President and Treasurer, Exchange Services, Inc., to George A. Fitzsimmons, Secretary, SEC, dated February 24, 1984.

[4] The commentator suggested that electronic access members should have the option of paying dues of $12,000 a year plus a fraction of a cent charge for each share traded by the member on the NYSE, rather than being restricted to paying the fixed rate proposed by the Exchange. Without judging the merits of that particular method of assessing fees, the Commission notes that, so long as the method proposed by an exchange is consistent with the requirements of the Act, it will not invalidate a proposed fee simply because other acceptable approaches could have been employed by the exchange.

In addition, the commentator objected that electronic access fees would be increased while other fees, such as listing fees for NYSE listed companies, have not been increased significantly in recent years. The Commission believes that, in assessing the appropriateness of the proposed fee increase under the requirement in section 6(b)(4) of the Act for the equitable allocation of reasonable dues and fees, it is more relevant to look to the relative costs to different categories of members of access to the Exchange.

[5] Article X, Section 1(c) of the NYSE Constitution provides that the dues required to be paid by electronic access members of the Exchange shall be fixed by the NYSE Board of Directors from time to time, and shall not be less than $13,500 annually.

[Release No. 20729; SR-NYSE-84-7]

Filing of Amendment to Proposed Rule Change by New York Stock Exchange, Inc.

March 6, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on March 5, 1984, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission an amendment to a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

On January 19, 1984, the NYSE filed with the Commission under section 19(b)(2) of the Act a proposed rule change (SR-NYSE-84-7) to remove the sunset and the refund provisions with respect to the proposed increase in the NYSE regulatory oversight service fee from $0.13 to $0.26 per $1000 of gross FOCUS revenue.[1] The NYSE made a concurrent filing (SR-NYSE-84-6) under section 19(b)(3)(A) of the Act to increase the fee to $0.26, provided that the increase would terminate on March 7, 1984 and all increased charges imposed thereunder refunded unless, prior to that date, the Commission approved the proposed increase pursuant to section 19(b)(2) of the Act.[2] In the instant filing, the NYSE is amending the sunset date by extending it from March 7, 1984 to April 6, 1984.[3] The purpose of the amendment is to permit the Commission to complete its review of the proposed rule change under section 19(b)(2) of the

[1] Notice of filing of the proposed rule change was given by issuance of a Commission release (Securities Exchange Act Release No. 20601, February 2, 1984), and by publication in the **Federal Register** (49 FR 4177, February 2, 1984).

[2] On March 5, 1984, the NYSE submitted an amendment to the proposed rule change, similar to the instant amendment, to extend the sunset date from March 7, 1984 to April 6, 1984. As of February 29, 1984, the NYSE has been billing members for regulatory oversight services under the increased rate of $0.26 per $1000 of gross revenues, retroactive to January 1, 1984.

[3] In addition, various provisions of paragraph 3 of SR-NYSE-84-7 are amended state that staffing for FINOP regulatory services will be increased from 153 to 178 by year-end 1984 to permit a minimum of two examiners to be assigned to each audit team, an increase of 16.4% in the FINOPS regulatory area. The paragraph is amended further to state that additional systems and overhead items will increase direct expenses of Financial and Operational regulatory services from $11.6 million to $14.4 million. Finally, the NYSE has filed an amendment Exhibit A including a revised financial summary of revenues, expenses, and net income (loss) for NYSE's Member Firm Regulatory Service Division.

Act. The NYSE states that the statutory basis for the proposed rule change is section 6(b)(1), 6(b)(4), and 6(b)(5) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–84–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6729 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20716; SR. Amex-82-22]

American Stock Exchange, Inc.; Filing of Amendment Nos. 6 and 7 to Proposed Rule Change

March 6, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 86 Trinity Place, New York, NY, 10006, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 27 and January 16, 1984, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission Amendment Nos. 6 and 7 to the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

The Amex proposes to revise the component stocks of the Electronics Index, the Leisure Index, the Precious Metal-Mining/Refining Index and Oil Services Index. These four indices are among the nine industry indices proposed to underlie exchange-traded options in File No. Amex–82–22, as amended by Amendment No. 5 thereto, now pending before the Commission.[1] In addition, Amex proposes to list options on two new industry indices, the Telephone Company Index and a Transportation Index. The Telephone Company Index would consist of post-divestiture American Telephone and Telegraph Company ("AT&T") and the seven regional holding companies to be created in connection with the divestitute. The Transportation Index would consist of the stocks of 20 New York Stock Exchange, Inc. ("NYSE") listed companies in the transportation industry. Unlike the other indices contained in Amex's proposal, the Transportation Index would be price-weighted.[2] The rules and contract specifications for options on the Telephone Company and Transportation Indices will be the same as the rules and contract specifications applicable to the Exchange's other industry-based index option contracts. The Amex seeks authority to commence trading in Transportation Index options.[3]

Amex also proposes to amend Amex Rule 901C. This amendment would allow the listing and trading on Amex of options on industry indices that contain eight or more stocks. Rule 901C currently requires an index to contain 10 or more stocks. In addition, Rule 901C would be amended to require that any index containing less than 25 stocks have 50 percent of the stock index value accounted for by stocks that meet the criteria and guidelines for stocks underlying individual stock options.[4]

Amex states that the purpose of the revisions to the four indices is to make those indices more representative of the industries each measures. Amex states that the proposed Telephone Index is a response to the investment and trading strategies that have developed involving a combination of "new" AT&T and the seven regional holding companies. According to Amex, both the Transportation and Telephone Index option will serve the same economic purposes as industry index options generally, *i.e.*, they will allow investors to transfer the industry risk associated with stock ownership. Rule 901C is being amended to accommodate the revisions to the pending indices and the newly proposed Telephone and Transportation Indices.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–22.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the Amex.

The Commission finds that the proposed Transportation Index does not differ in any material respect from the industry indices on which the Commission has previously approved options trading. The rules applicable to transportation index options are the same as those that apply to Amex's

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[1] The Commission has already approved Amendments Nos. 1–4 of File No. SR-Amex–82–22, as well as two of eleven index options Amex originally proposed. Securities Exchange Act Release Nos. 19709 and 20075, April 29 and August 12, 1983; 48 FR 20179, and 37556, May 4 and August 18, 1983. In addition to the four indices being revised, the Amex had pending previous to these amendments the following indices: Aerospace/Defense, Drugs, Financial Services, Health Care Services and Retail Merchandising.

[2] A price-weighted index is calculated by adding the prices of one share of each of the companies in the index and dividing that sum by a pre-established divisor. The other proposed indices are "market-weighted," meaning that the relative capitalization of each security in the index, rather than its price per share, determines that security's share of the total index value.

[3] Amex does not now seek authorization to commence trading in the ten other proposed index options. Should Amex desire to do so, it will make a filing with the Commission under Rule 19b–4. For this reason, only the Transportation Index option is treated in the approval portion of this release.

[4] These criteria require, among other things, that before a stock may be the subject of options trading the stock have a minimum of 7 million publicly held shares; 6,000 shareholders; trading volume of at least 2.4 million shares for the 12 months preceding listing of the overlying option; and a minimum per share price of $10.00 for the three months preceding listing of the overlying option. There are somewhat reduced maintenance standards for stocks on which standardized options already are trading.

existing industry index options. Moreover, Amex has agreed to delay two weeks between the announcement of approval of this index option and the commencement of actual trading in it in order to provide the industry an opportunity to prepare for the introduction of this product. Finally, prior to the commencement of actual trading, Amex will have to submit to the Commission an adequate plan for the surveillance of trading in this index option.

With respect to the proposed amendments to Amex Rule 901C, the Commission notes that it has previously discussed the purposes minimum standards for the composition of industry indices should serve.[5] Amex has committed to working with the Commission and the other options' exchanges to develop uniform minimum standards that serve these purposes. The Commission finds that the proposed amendments to Amex Rule 901C establish minimum standards that are adequate as interim measures until such time as Amex and the other options' exchanges may be able to complete this process and submit to the Commission pursuant to Rule 19b–4 rule changes codifying uniform minimum standards. The Commission also finds that the Transportation Index as now composed is consistent with the standards contained in amended Rule 901C and with the concept of minimum standards described in the NYSE Release.

For the reasons discussed above, and subject to these conditions, we find that the portion of the proposed rule change containing the Transportation Index option is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for partially approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposed Transportation Index option does not differ in any material respect from industry index options we have previously approved.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the portion of the proposed rule change containing the Transportation Index option, subject to the above-described conditions, is approved.

[5] Securities Exchange Act Release No. 20663, February 17 1984, 49 FR 7171, February 27, 1984 (the "NYSE Release"), at n. 22.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–6730 Filed 3–12–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20718; SR–NYSE–83–52]

New York Stock Exchange, Inc.; Order Granting Accelerated and Partial Approval to Amended Proposed Rule Change

I. Introduction

March 6, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b–4 thereunder, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY, 10005, on October 28, 1983, filed with the Commission a proposed rule change to modify NYSE's rules to accommodate the listing and trading of standardized put and call options contracts on "narrow-based" (or "industry") stock indices. In addition, the NYSE proposed to list and trade options on 13 specific industry indices.[1] On January 5, 1984, the NYSE filed Amendment No. 1 to the proposed rule change.[2] On January 31, 1984, the NYSE filed Amendment No. 2 to the proposed rule change.[3]

On February 2, 1994, the Commission approved that portion of the proposed rule change that consisted of the rules the NYSE proposed to accommodate the listing and trading of industry index options. [4]

The Commission in this release is taking action upon the portion of the proposed rule change that consists of the proposal to commence trading in options on a telephone index.[5]

The proposed telephone index would contain eight NYSE-listed stocks: post-divestiture American Telephone and Telegraph ("AT&T") and the seven regional holding companies recently divested from AT&T. The index would be market-weighted, meaning that each share's relative weight in the index is determined by its total capitalization.

The Commission has received two comments relating in part to the specific contracts contained in the NYSE proposal. The Chicago Board Options Exchange, Incorporated ("CBOE") previously suggested that the Commission should not approve the trading on the NYSE of options on any index in which any NYSE-listed security accounts for more than 15 percent of the total index value.[6] The Commission has previously addressed that comment in its order approving the portion of the proposal containing the NYSE's rules relating to industry index options. The National Association of Securities Dealers, Inc. ("NASD") has previously commented that the Commission should not approve any options on industry index that might act as surrogates for options on over-the-counter ("OTC") securities.[7] Because this index does not contain any OTC securities, the Commission need not address the NASD's comment at this time.

The Commission finds that the telephone index does not differ markedly from indices on which we have previously approved options trading. As noted above, the Commission has previously approved the NYSE rules that would apply to trading in options on this index.[8]

The NYSE has also agreed to delay two weeks between the announcement of approval of the telephone index option and commencement of actual trading to provide the industry an opportunity to prepare for the introduction of this contract. In addition, prior to the commencement of actual

[1] Notice of the proposed rule change was given in Securities Exchange Act Release No. 20343, November 3, 1983, 48 FR 51995, November 15, 1983.

[2] Notice of Amendment No. 1 was given in Securities Exchange Act Release No. 20539, January 6, 1984, 49 FR 1591, January 12, 1984.

[3] Notice of Amendment No. 2 was given in Securities Exchange Act Release No. 20663, February 17, 1984, 49 FR 7171, February 27, 1984 (the "February Release").

[4] *Id.*

[5] Because the Commission does not here take action on the other 12 specific index options contained in the NYSE proposal, or on the proposed rules (Rules 715 and 716) containing the minimum standards for index composition (*see* n. 8 below), this approval order is partial only

[6] Letter dated December 14, 1983, from Anne Taylor, Secretary, CBOE to George A. Fitzsimmons, SEC. AT&T comprises over 15 percent of the value of the telephone index.

[7] Letter dated December 7, 1983, from William Broka, Secretary, NASD, to George A Fitzsimmons, Secretary, SEC.

[8] In the February Release, the Commission deferred action on the rules containing the minimum standards the NYSE proposed to govern the composition of its industry index options and described the purposes minimum standards should serve. The NYSE has committed to working with the Commission staff and the other exchanges to develop uniform minimum standards that serve these purposes. With the NYSE's consent, the Commission is again deferring action on NYSE's proposed rules 715 and 716, which would establish certain minimum standards, to give the exchanges further time to develop and submit to the Commission pursuant to Rule 19b–4 uniform minimum standards in this area. The Commission finds that NYSE's telephone index, as now composed, does not raise the concerns minimum standards would be designed to avoid. Until such time as the NYSE, pursuant to Rule 19b–4, adopts rules in this area, it will be required to submit any change in its telephone index option to the Commission pursuant to Rule 19b–4.

trading, NYSE will have to submit to the Commission an adequate plan for the surveillance of trading in this index option.

For these reasons, and subject to the conditions described above, we find that the proposed telephone index option is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the portion of NYSE's proposed rule change containing telephone index options prior to the thirtieth day after the date of publication of notice of filing of Amendment No. 2 in that the changes to the telephone index contained in Amendment No. 2 were technical in nature and did not materially change the telephone index as contained in the original filing published for comment on November 15, 1983.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned portion of the proposed rule change, subject to the above described conditions, is approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6731 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20717; SR-CBOE-83-42; SR-CBOE-84-3]

Chicago Board Options Exchange, Inc.; Filing and Order Approving Proposed Rule Change

The Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois, 60604, submitted on December 20, 1983 and February 1, 1984, copies of proposed rule changes pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to permit CBOE to list and trade standardized put and call options on two industry indices published by Standard and Poor's Corporation ("S&P"), the S&P Telephone and Transportation Indices. Notice of the proposed rule change relating to the S&P Transportation Index option (File No. SR-CBOE-83-42), together with the terms of substance of the proposed rule change, was given by the issuance of a Commission release (Securities Exchange Act Release No. 20414, December 23, 1983) and by publication in the **Federal Register** (49 FR 182, January 3, 1984). No comments were received with respect to that proposed rule change.

The rule change relating to the S&P Telephone Index has not previously been published for public comment. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed telephone index would contain eight NYSE-listed stocks: post-divestiture American Telephone and Telegraph ("AT&T") and the seven regional holding companies recently divested from AT&T. The index would be market-weighted, meaning that each share's relative weight in the index is determined by its total capitalization. The contract specifications and rules applicable to the index option are the same as those that apply to CBOE's existing industry index options.

The proposed Transportation Index would contain 20 stocks, 18 listed on the NYSE and two traded in the over-the-counter ("OTOC") market. Both of the OTC stocks included in the index are "national market system" securities, and therefore last sale reports are available for transactions in these securities. Like the Telephone Index, the Transportation Index is market-weighted and the contract specifications and rules governing the contract are the same as those applicable to existing CBOE industry index options.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change relating to the S&P Telephone Index option within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-84-3.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all written communications relating to the proposed rule change relating to the S&P Telephone Index option between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filings and any subsequent amendments also will be available at the principal office of the CBOE.

The two indices do not differ markedly from indices on which we have previously approved options trading. The same rules applicable to trading in these index options currently apply to CBOE's existing industry index options.[1] The CBOE has also agreed to delay two weeks between the announcement that it will trade the Telephone and Transportation Index options and the commencement of actual trading to provide the industry an opportunity to prepare for the introduction of these products. Finally, prior to the commencement of actual trading, CBOE will have to submit to the Commission an adequate plan for the surveillance of trading in this index option.

For these reasons, and subject to the conditions described above, we find that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change related to the proposed S&P Telephone Index option prior to the thirtieth day after the date of publication of notice of filing thereof, in that this options contract does not differ in any material respect from industry index options the Commission has previously approved.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes, subject to the above described conditions, are approved.

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[1] The Commission approved these rules at the time we approved CBOE's Oil (Intregrated International) Industry Index options. We note that CBOE has still not submitted to us for our consideration under Section 19(b) of the Act standards for stocks underlying its industry indices. The Commission previously has stated that the development of such standards was a pre-requisite to the introduction of additional industry index options. *See* Securities Exchange Act Release No. 20396, November 18, 1983. While the CBOE has not yet proposed any standards for industry index options, it has committed to working with the Commission staff and the other exchanges to develop such standards. In the release partially approving the New York Stock Exchange proposal to trade industry index options, the Commission described the purposes minimum standards should serve. *See* Securities Exchange Act Release No. 20663, February 17, 1984, at n. 22. The Commission finds that the CBOE's S&P Telephone and Transportation Indices, as now composed, do not raise the concerns minimum standards would be designed to avoid. Until such time as CBOE, pursuant to Rule 19b-4, adopts rules that codify acceptable minimum standards, CBOE will be required to continue to submit each change in its industry options to the Commission as a proposed rule change under Rule 19b-4.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6732 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13808; 812-5778]

Merrill Lynch Basic Value Fund, Inc., et al., Application

March 6, 1984.

Notice is hereby given that Merrill Lynch Basic Value Fund, Inc., Merrill Lynch Capital Fund, Inc., Merrill Lynch Special Value Fund, Inc., Merrill Lynch Pacific Fund, Inc., Merrill Lynch Municipal Bond Fund, Inc., and Merrill Lynch Corporate Bond Fund, Inc., each of which is registered under the Investment Company Act of 1940 (the "Act") 633 Third Avenue, New York, New York, 10017, as an open-end, diversified management investment company (such funds, together with any existing open-end, diversified investment company and any open-end, diversified investment company organized subsequent to the date hereof for which Merrill Lynch Funds Distributor, Inc. acts as principal underwriter, are herein referred to as the "Funds"), Merrill Lynch Funds Distributor, Inc. (the "Distributor"), and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") or the ("Dealer"), (collective referrred to with the Distributor and the Funds as the "Applicants") filed an application on February 23, 1984, for an order of the Commission pursuant to Section 6(c) of the Act amending a prior order and granting an exemption from Section 22(d) of the Act to permit the purchase and redemption of shares of the Funds through the Sharebuilder Plan offered to investors by the Dealer in the manner and subject to the conditions stated therein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to those provisions to which the exemptions apply.

The application states that Merrill Lynch Capital Fund, Inc. ("Capital Fund") seeks the highest total investment return consistent with prudent risk through a fully managed investment policy utilizing equity, debt and convertible securities. Merrill Lynch Special Value Fund, Inc. ("Special Value Fund") seeks long-term growth of capital by investing in a diversified portfolio of securities, primarily common stock, of relatively small companies that management believes have special investment value and emerging growth companies regardless of size. Merrill Lynch Pacific Fund, Inc. ("Pacific Fund") seeks long-term capital appreciation primarily through investment in equities of corporations domiciled in Far Eastern or Western Pacific countries. Merrill Lynch Basic Value Fund, Inc. ("Basic Value Fund") seeks capital appreciation and, secondarily, income by investing in securities, primarily equities, that management believes are undervalued and therefore represent basic investment value. Merrill Lynch Municipal Bond Fund, Inc. ("Municipal Bond Fund") is comprised of three separate portfolios, High Yield, Insured and Limited Maturity, each of which seeks income exempt from Federal income taxes. Merrill Lynch Corporate Bond Fund, Inc. ("Corporate Bond Fund") also is comprised of three separate portfolios, High Income, High Quality, and Intermediate Term, each of which seeks current income through investment in fixed income securities.

Applicants state that the Distributor is a wholly-owned subsidiary of Merrill Lynch Asset Management, Inc. ("MLAM"), which is a wholly-owned subsidiary of Merrill Lynch & Co., Inc. The Distributor serves as the principal underwriter of each of the Funds and for certain other registered investment companies. Applicants also state that the Dealer, a wholly-owned subsidiary of Merrill Lynch & Co., Inc., is registered as a broker-dealer pursuant to Section 15 of the Securities and Exchange Act of 1934.

According to the application, MLAM is the investment adviser of Capital Fund and Pacific Fund. Fund Asset Management, Inc. ("FAMI"), a wholly-owned subsidiary of MLAM, is the investment adviser of Basic Value Fund, Special Value Fund, Municipal Bond Fund and Corporate Bond Fund. MLAM and FAMI are both registered investment advisers under the Investment Advisers Act of 1940.

On May 5, 1983, the Commission issued an order (Investment Company Act Release No. 13218) (the "Order") pursuant to section 6(c) of the Act granting exemptions from the provisions of Rule 22c-1 and section 22(d) of the Act to permit, among other things, shares of Basic Value Fund, Capital Fund, Special Value Fund, Pacific Fund, (collectively the "Equity Funds") and all subsequent open-end, diversified companies for which the Distributor acts as principal underwriter to be sold through the Sharebuilder Plan. The Order permits shares of the Equity Funds to be sold through Sharebuilder at their net asset value per share plus a sales commission calculated in accordance with the regular Sharebuilder commission schedule. The Sharebuilder commission ranges from 6% on transactions under $300 to a maximum rate of $27.50 plus 1% on transactions between $2500 and $5000. Under the terms of the Order, the commission is assessed only on the purchase of shares. Dividends and distributions on shares of an Equity Fund are reinvested without a load unless a shareholder elects to receive payment in cash. Applicants state that the offer of shares of the Equity Funds to Sharebuilder customers has not yet commenced.

The application seeks to modify the Order to the extent necessary to permit shares of the Equity Funds to be sold through Sharebuilder in accordance with the revised commission schedule set forth in the application. Applicants propose that shares of the Equity Funds be sold at net asset value per share plus a commission of 5.5% of the amount of the order on purchases of $50 to $300 and $3.00 plus 4.5% on purchases of $301 to $5,000.

In addition, the application sets forth a proposed commission schedule applicable to the sale of shares of the portfolios of Municipal Bond Fund and Corporate Bond Fund. With respect to shares of the High Yield and Insured Portfolios of Municipal Bond Fund and the High Income and High Quality Portfolios of Corporate Bond Fund, Applicants propose a commission of 3.5% of the amount of all purchase orders entered through Sharebuilder. The commission rate on all purchases of shares of Limited Maturity Portfolio of Municipal Bond Fund and Intermediate Term Portfolio of Corporate Bond Fund would be 0.9% and 1.8%, respectively. Applicants note that the sales charges, as disclosed in the prospectuses of the Bond Funds, on purchase orders of $0 to $5000 are 4.0% for the High Yield, Insured, High Income and High Quality Portfolios, 2.0% for the Intermediate Term Portfolio and 1.0% for the Limited Maturity Portfolio.

Applicants represent that, except for the basis of calculating the applicable sales charges, the terms and conditions of the offer of shares of the Funds through Sharebuilder will be identical to those set forth in the Order.

Applicants contend that the revised schedules proposed for the Funds are consistent with the policy considerations underlying the grant of the Order. The Applicants state that those considerations include the ability of Applicants to realize economies in

the marketing and distribution of shares of the Funds through Sharebuilder and reduced order processing and transfer agency expenses associated with purchases and redemptions of such shares. Secondly, the sales of shares of the Funds in accordance with the Order tends to diminish the inequities inherent in requiring investors who either do not receive or do not want the services and guidance of an account executive in determining to purchase shares of a Fund to nevertheless compensate a dealer or the distributor for such services in the full amount of the sales load set for them in the prospectus of a Fund. Finally, Sharebuilder provides an economical means of marketing shares to the small investor who is sensitive to transaction costs in his investment activity and who, because of the small amounts available for investment, may not be an attractive prospect for account executives.

Applicants argue that the employment of the revised schedules does not affect the realization by Applicants of economies and cost reductions available through the Sharebuilder Plan. Applicants state that the revised schedules would continue to offer Sharebuilder customers a significant economic benefit through reduced transaction costs. Applicants also believe that the discounts offered by the revised schedules more closely approximate the cost savings available to Applicants through the use of the Sharebuilder program and is more consistent with the overall pricing structure of the Sharebuilder Plan. Finally, the application states that the inclusion of the Bond Funds in the Sharebuilder program will benefit Sharebuilder customers by providing them with a wide range of mutual fund products—equity funds, a tax-exempt fund and a bond fund—at reduced commission rates.

Applicants submit that the granting of their application is appropriate in the public interest and consistent with the protection of investors. Applicants believe that the offer of shares of the funds through Sharebuilder will enable Applicants to realize significant cost savings. Applicants also believe that the revised schedules set forth in the application will permit Sharebuilder customers to realize a commensurate benefit through reduced transaction costs on the purchase of shares of the Funds. Applicants therefore request the Commission to issue an order under section 6(c) as requested.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 3, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6722 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13807; 811-3039]

Financial Daily Dividend Shares, Inc.; Application

March 6, 1984.

Notice is hereby given that Financial Daily Dividend Shares, Inc. ("Applicant"), 7503 Marin Drive, Suite 380-D, Englewood, Colorado, 80111, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management company, filed an application on September 1, 1983, for an order, pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the provisions thereof relevant to a consideration of the application.

On April 4, 1980, Applicant registered under the Act and filed a registration statement under the Securities Act of 1933, which became effective on April 10, 1980. The public offering commenced on June 2, 1980.

According to the application, Applicant began operations as a result of a decision by the board of directors of Financial Daily Income Shares, Inc. (File No. 811-2606) ("FDIS"), to the limit sales of FDIS. The decision was made after considering the potential effect on FDIS shareholders of compliance with the March 14, 1980, Credit Control Regulations, established by the Federal Reserve Board, with the attendant requirements for maintaining noninterest bearing special deposits with the Federal Reserve Board. Following termination of Credit Control Regulations on July 28, 1980, it was decided to terminate the activities of Applicant. On November 20, 1980, FDIS issued 2,679,400 shares in exchange for $2,642,760, representing the remaining net assets of Applicant on that date.

Applicant states that as of August 25, 1983, it had no assets, no debts, no securityholders and that it was not a party to any litigation. Applicant further states that it is not now engaged, nor does it propose to engage in any business affairs other than those necessary for its winding up and that it will file a Certificate of Dissolution as required by state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6723 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12987]

Tenneco Inc.; Application and Opportunity for Hearing

March 6, 1984.

Notice is hereby given that Tenneco Inc. has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter sometimes referred to as the "Act") for a finding by the Commission that the trusteeship of the Chase Manhattan Bank (National Association) ("Chase") under Indentures of Tnneco Inc. (the "Company") dated as of April 1, 1964, December 1, 1964, September 1, 1965, May 1, 1967, February 1, 1974, May 1,

1975, April 1, 1977, as amended, April 15, 1978, June 15, 1979, May 1, 1980, January 15, 1981, June 1, 1981, June 1, 1981, December 15, 1981, September 1, 1982 and October 1, 1982, as supplemental (the "Qualified Indentures"), which were heretofore qualified under the Act, the Indenture of the County of Sweetwater, Wyoming (the "County"), dated August 1, 1981 (the "Non-Qualified Indenture"), the obligations issued under which Indenture were guaranteed by the Company pursuant a Guaranty Agreement dated August 1, 1981 (the "1981 Guaranty Agreement") and which Indenture is not qualified under the Act, the Indentures of Tenneco Intenational N.V. dated October 1, 1981 (the "1981 Exempt Indenture") and August 4, 1982 (the "1982 Exempt Indenture") (collectively the "Exempt Indentures"), the obligations issued under which Indentures are guaranteed by the Company pursuant to Section 2.05 of the Exempt Indenture (the "Guaranties"), which Indentures are not qualified under the Act, and the trusteeship by Chase under the Indenture of the County dated December 1, 1982 (the "New Indenture"), the obligations issued under which Indenture are guaranteed by the Company pursuant to a Guaranty Agreement dated December 1, 1982 (the "1982 Guaranty Agreement") and which Indenture is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under the Qualified Indentures, the Non-Qualified Indentures, the Exempt Indentures and the New Indenture.

Section 310(b) of the Act, which is included in the provisions of each of the Qualified Indentures, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (b)(1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the Company are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act (as set forth in each of the Qualified Indentures), seeks to exclude the New Indenture from the operation of section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of Section 310(b)(1) of the Act (as set forth in each of the Qualified Indentures) if the Company shall have sustained the burden of proving by this application to the Commission and after opportunity for hearing thereon, that the trusteeship of Chase under Qualified Indentures, the Non-Qualified Indenture, the Exempt Indenture and the New Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under any of these Indentures. In support of its application the Company alleges that:

(1) The Company of Sweetwater, Wyoming issued and sold $20,000,000 aggregate principal amount of its 10¾% Pollution Control Revenue Bonds (Tenneco Oil Project) Series 1982 (the "New Bonds") under the New Indenture. The New Bonds are guaranteed by the Company pursuant to the 1982 Guaranty Agreement;

(2) The New Bonds were issued by a political subdivision of a State of the United States of America. The New Bonds are therefore exempt from the registration requirements of the Securities Act of 1933 as amended, pursuant to Paragraph (2) of Subsection 3(a) thereof, and the New Indenture is exempt from the qualification provisions of the Trust Indenture Act of 1939 pursuant to Paragraph (4) of Subsection 304(a) thereof;

(3) At July 31, 1983, the Company had outstanding

$5,235,000 of its 5⅛% Debentures due 1984,
$5,257,000 of its 5% Debentures due December 1, 1984,
$10,857,000 of its 5¼% Debentures due 1985,
$15,550,000 of its 6½% Debentures due 1987,
$71,866,000 of its 9% Debentures due 1994,
$99,975,000 of its 9⅞% Debentures due 2000,
$121,225,000 of its 8⅜% Debentures due 2002,
$143,900,000 of its 8⅞% Debentures due 2003,
$250,000,000 of its 9½% Debentures due 2004,
$250,000,000 of its 12⅛% Debentures due 2005,
$200,000,000 of its 13⅜% Notes due 1991,
$200,000,000 of its 14½% Debentures due 2006,
$200,000,000 of its 14½% Notes due 1991,
$100,000,000 of its 15% Debentures due 2006,
$400,000,000 of its 6% Debentures due 2011,
$200,000,000 of its 13.70% Notes due 1992,
$200,000,000 of its 13⅝% Debentures due 2007,
$200,000,000 of its 11⅛% Debentures due 2013,

(collectively, the "Qualified Debentures and Notes") issued under the Qualified Indentures (dated April 1, 1964, December 1, 1964, September 1, 1965, May 1, 1967, February 1, 1974, May 1, 1975, April 1, 1977 (with Supplemental Indenture dated November 15, 1977), April 15, 1978, June 15, 1979, May 1, 1980, January 15, 1981, April 1, 1981, June 1, 1981, June 1, 1981, December 15, 1981, September 1, 1982, and October 1, 1982 (with Supplemental Indentures dated October 1, 1982 and May 15, 1983), respectively) executed by the Company and Chase, as trustee, $21,000,000 of the 9½% Bonds due August 1, 1984, issued under the Non-Qualified Indenture and guaranteed by the Company pursuant to the 1981 Guaranty Agreement, $14,166,666 of the 17% Guaranteed Notes due October 1, 1989, issued under the 1981 Exempt Intenture and guaranteed by the Company pursuant to Section 2.05 thereof and $45,465,000 of the 14¾% Notes due August 4, 1987, issued under the 1982 Exempt Indenture and guaranteed by the Company pursuant to Section 2.05 thereof. The non-qualified Indenture and the Exempt Indentures were executed by Chase, as Trustee, and are not qualified under the Act. The Qualified Debentures and Notes were registered under the Securities Act of 1933 (File Nos. 2-22137, 2-22929, 2-23953, 2-26360, 2-49852, 2-53402, 2-58345, 2-61001, 2-64660, 2-67547, 2-70482, 2-71345, 2-72606, 2-72606, 2-75143, 2-78893, 2-79540 and 2-80117, respectively) and the Qualified Indentures were qualified under the Trust Indenture Act of 1939;

(4) The Qualified Indentures, the 1981 Guaranty Agreement, the Guaranties and the 1982 guaranty Agreement are wholly unsecured, and rank pari passu inter se;

(5) The Company's guaranty of the New Bonds is neither superior nor inferior in right of payment to the Qualified Debentures and Notes, the 1981 Guaranty Agreement and the Guaranties;

(6) The Company is not in default under the Qualified Indentures or the Qualified Debentures and Notes, the 1981 Guaranty Agreement, the Guaranties or the 1982 Guaranty Agreement;

(17) Such differences as exist between the Qualified Indentures, the Non-Qualified Indenture, the 1981 Guaranty, the Exempt Indentures, the Guaranties, the New Indenture and the 1982 Guaranty are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify

Chase from acting as trustee under any of the Indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in Connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than April 3, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, the issues of fact or law raised by said Applicant which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6724 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

March 6, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Bethlehem Steel Corporation
Common Stock, $2.50 Cumulative Convertible Preferred (File No. 7-7385)
Chubb Corporation
Common Stock, $1 Par Value (File No. 7-7386)
Berg Enterprises
Common Stock, $.10 Par Value (File No. 7-7387)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 27, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-6725 Filed 3-12-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-0197]

A.T. Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Rules and Regulations (48 FR 45014 (September 30, 1983)), by A.T. Capital Corp., 900 Euclide Avenue, T-18, Cleveland, Ohio 44101 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et. seq.*)

The proposed officers, directors and shareholders are:

Name and Address, Title or Relationship, and Percent of Ownership

Jerry V. Jarrett, 900 Euclid Avenue, Cleveland, Ohio 44101, Chairman of the Board, Director
James D. Rode, 900 Euclid Avenue, Cleveland, Ohio 44101, Vice Chairman, Director
John H. Rogers, 900 Euclid Avenue, Cleveland, Ohio 44101, President, Director
Shailesh J. Mehta, 900 Euclid Avenue, Cleveland, Ohio 44101, Vice President, Director
Robert C. Salipante, 900 Euclid Avenue, Cleveland, Ohio 44101, Vice President, Manager, Director
Michael H. Shaut, 900 Euclid Avenue, Cleveland, Ohio 44101, Secretary, Treasurer, Director
Benjamin H. Paddock, 900 Euclid Avenue, Cleveland, Ohio 44101, Director
AmeriTrust Corporation, 900 Euclid Avenue, Cleveland, Ohio 44101, Shareholder, 100%

AmeriTrust Corporation is a bank holding company with total assets at year end 1982 of $5.8 billion. It is one of the 100 largest U.S. banking companies. Its principal subsidiary is AmeriTrust Company, one of the nation's major regional banks, headquartered in Cuyahoga County, Ohio, with branch systems in major population centers throughout the state.

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the gneral business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 141 L Street, N.W., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Cleveland, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 6, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-6746 Filed 3-12-84; 8:45 am]

BILLING CODE 8025-01-M

Region IV—Advisory Council Meeting; Public Meeting

The Small Business Administration, Region IV Advisory Council, located in the geographical area of Atlanta, will hold a public meeting from 9:00 a.m. to 4:00 p.m., on Thursday, April 12, 1984, at the Quality Inn, Highway 17, Toccoa,

Georgia 30577, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Clarence B. Barnes, District Director, U.S. Small Business Administration, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309—(404) 881–4749.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 7, 1984.

[FR Doc. 84–6745 Filed 3–12–84; 8:45 am]

BILLING CODE 8025–10–M

Region VIII—Advisory Council Meeting; Public Meeting

The Small Business Administration, Region VIII Advisory Council, located in the geographical area of Denver, will hold a public meeting from 8:30 a.m. to 12:00 p.m., on Thursday, April 12, 1984, at the Federal Building, Room 431, 1961 Stout, Denver, Colorado 80202 to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Eugene Uccellini, District Director, U.S. Small Business Administration, 721 19th Street, Denver, Colorado 80202–2599—(303) 837–2607.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 7, 1984.

[FR Doc. 84–6744 Filed 3–12–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3010]

Kansas; Declaration of Physical Disaster Loan Area

Correction

In FR Doc. 84–5129 appearing on page 7177 in the issue of Monday, February 27, 1984, make the following correction in column two, line three of the heading: "3110" should read "3010".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Stapleton International Airport, Denver Colorado; Intent to Prepare Environmental Impact Statement

The Federal Aviation Administration, acting as lead agency, intends to prepare Draft and Final Environmental Impact Statements (EIS) for the expansion of Stapleton International Airport, Denver, Colorado.

Proposed Action and Alternatives

The proposed action is the addition of a new 12,000 foot east-west runway to be located on the four sections of the Rocky Mountain Arsenal adjacent to the existing airport. Alternatives to be evaluated include:

a. Feasible alignments of a new 12,000 foot east-west runway located on the southern four sections of the Rocky Mountain Arsenal.

b. A new 12,000 foot north-south runway.

c. No-Build (continue using the existing airport as is).

d. Other reasonable and prudent alternatives which have potential.

Scoping Process

The proposed action was the subject of an environmental assessment (EA) report prepared in April 1983. Persons wishing to review the EA in order to better understand the proposed action or provide comments regarding environmental concerns may review the EA at the following locations:

Aurora North Public Library, 1298 Peoria Street, Aurora, CO 80110

Adams County Public Library, 7185 Monaco Parkway, Commerce City, CO 80022

Denver Public Library (Montbello), 12955 Albrook Drive, Denver, CO 80239

Denver Public Library, 4705 Montview Boulevard, Denver, CO 80207

Federal Aviation Administration, Airports District Office, 10455 East 25th Avenue, Aurora, CO 80010

Denver Collection of Government Publications, Denver Public Library, 1357 Broadway, Denver, CO 80202

In order to insure that all significant issues related to the proposed action are identified, five public participation meetings (Scoping Meetings) will be held to receive public input regarding the issues which the public feels should be addressed in the EIS. The meetings will be held at the following times and places:

March 26, 7:00 p.m., Hill Junior High School, 451 Clarmont, Denver, CO

March 27, 7:00 p.m., North Middle School, Montview Boulevard and Peoria, Aurora, CO

March 28, 7:00 p.m., Adams City High School, 69th and Dexter, Commerce City, CO

March 29, 1:30 p.m., City Council Chambers, Brighton City Hall, 22 South Fourth Street, Brighton, CO

March 29, 7:00 p.m., Thornton Civic Center, 9500 Civic Center Drive, Thornton, CO

Letters containing environmental concerns must be received by George P. Hunter, Federal Aviation Administration, Airports District Office, 10455 East 25th Avenue, Aurora, Colorado 80010, by March 29, 1984, in order to be given consideration.

Approximate Release of Draft EIS: July 1985.

Approximate Release of Final EIS: May 1986.

Point of Contact for Information

Mr. George P. Hunter, Federal Aviation Administration, Airports District Office, 10455 East 25th Avenue, Aurora, CO 80010, Telepone: (303) 340–5527.

Dated: February 28, 1984.

Walter A. Barbo,

Manager Airports District Office.

[FR Doc. 84–6610 Filed 3–12–84; 8:45 am]

BILLING CODE 4910–13–M

Flight Standards District Office Satellite at Santa Monica, California; Closing

Notice is hereby given that on or about March 1, 1984, the Flight Standards District Office Satellite at Santa Monica, California will be closed. Services to the aviation public formerly provided by this office, will be provided by the Flight Standards District Office in Los Angeles, California. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Los Angeles, CA, on February 29, 1984.

H. C. McClure,

Director, Western-Pacific Region.

[FR Doc. 84–6609 Filed 3–12–84; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

Cultural Property Advisory Committee

The Cultural Property Advisory Committee was created by Public Law 97–446, Title III, Implementation of Convention of Cultural Property.

The Cultural Property Advisory Committee will review requests from other countries for assistance in protecting their archaeological and ethnological materials that are identified as part of their cultural patrimony and are in danger of pillage. The Committee will then recommend courses of action to the President and Congress including bilateral or multilateral agreements, or emergency measures. The Committee also has responsibility for reviewing

existing international agreements under the act and emergency controls in this area.

The Committee is required to submit to the Congress and the President a copy of each report prepared by it.

The charter of the Cultural Property Advisory Committee has been filed with the House Foreign Affairs Committee, the Senate Foreign Relations Committee, the GSA Advisory Committee Secretariat, and The Library of Congress, as required by the Federal Advisory Committee Act, Public Law 92–463.

Dated: March 6, 1984.

Charles Z. Wick,

Director.

[FR Doc. 84–6636 Filed 3–12–84; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed extension and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 7, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Information and Regulations Staff.
2. Certification of Inability to Pay Transportation Costs.
3. VA Form 00–2323.
4. Annually.
5. Individuals or households.
6. 552,500 responses.
7. 46,042 hours.
8. Not applicable.

[FR Doc. 84–6635 Filed 3–12–84; 8:45 am]

BILLING CODE 8320–01–M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed extension and reinstatement and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans' Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 7, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Memorial Affairs
2. Request for Disinterment
3. VA Form 40–4970
4. On occasion
5. Individuals or households
6. 180 responses
7. 30 hours
8. Not applicable

Reinstatement

1. Office of Construction
2. Parking Questionnaire
3. VA Form 08–9872(NR)
4. On occasion
5. Individuals or households
6. 2,000 responses
7. 40 hours
8. Not applicable

[FR Doc. 84–6692 Filed 3–12–84; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Medical Center, Palo Alto, California; Spinal Cord Injury Addition; Finding of No Significant Impact

The Veterans' Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a Spinal Cord Injury Addition at the Veterans' Administration Medical Center (VAMC), Palo Alto, California and has determined that the potential environmental impacts will be minimal from the development of this project.

The project will be a single level addition to Building No. 7 and a renovation of some existing space in Building No. 7. Total construction is estimated to include 81,000 gross square feet.

Development of the project will cause minor impacts on the human and natural environment affecting noise levels, onsite traffic and parking, solid waste disposal, and visual impacts. Short term effects of minor air pollution (dust and fumes), soil erosion, and noise levels will occur during construction operations. The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of ths project.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans' Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans' Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3316. Questions or request for single copies of the Environmental Assessment may be addressed to the above office.

Dated: March 6, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84–6693 Filed 3–12–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 50
Tuesday, March 13, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, March 14, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. FHSA Flashpoint Testing: Proposed Rule

The staff will brief the Commission on a draft **Federal Register** notice proposing amendments of regulations to: (1) Define the terms "extremely flammable," "flammable," and "combustible" for purposes of clarifying hazardous substances which release ignitible vapors and (2) prescribe a test method for determining flashpoint temperatures which is compatible with procedures used by other Federal agencies.

2. Upholstered Furniture Welt Cord Petition, FP 83-1

The staff will brief the Commission on a petition from the Citizens Committee for Fire Protection which asks the Commission to initiate a proceeding for the issuance of a mandatory flammability standard for welt cord used in upholstered furniture.

3. Section 15 Enforcement Policy Statement

The staff will brief the Commission on a draft enforcement policy statement concerning reporting under section 15 of the Consumer Product Safety Act.

(For a recorded message containing the latest agenda information: call 301-492-5709).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301-492-6800.

Signed: March 8, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-6736 Filed 3-8-84; 4:51 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, March 15, 1984, 10 a.m.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Status Report—Metal Chimney Project

The staff will brief the Commission on the status of the Metal Chimney Project. Following this the metal chimney industry will make a presentation through the Wood Heating Alliance.

(For a recorded message containing the latest agenda information: call 301-492-5709).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301-492-6800.

Signed: March 8, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-6737 Filed 3-8-84; 4:51 pm]

BILLING CODE 6355-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

March 8, 1984.

FCC to Hold Open Commission Meeting, Thursday, March 15, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 15, 1984, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Private Radio—1—Title: Amendment of Part 90 of the Rules to authorize narrowband technologies for base/mobile communications in the Private Land Mobile Radio Services. Summary: The FCC will consider adoption of a Notice of Proposed Rule Making proposing a specific channel structure and licensing plan for narrowband operations, including ACSB, in the private land mobile 150 MHz band.

Common Carrier—1—Title: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (CC Docket No. 79-252) Summary: The Commission will consider steps further implementing its policy of forbearance from regulation of carriers subject to competition.

Common Carrier—2—Title: Prescription of Depreciation Rates for AT&T's Regional Interexchange Corporations. Summary: The Commission has under consideration the initial prescription of depreciation rates for twenty-two regional interexchange companies (IXCs) of AT&T Communications and the modification of depreciation rates for the COE-Crossbar account for Pacific Bell and Pacific Northwest Bell Telephone Company. For all accounts except COE-Crossbar the rates for the IXCs are the same rates which were previously prescribed for the BOCs. For the COE-Crossbar account in certain jurisdictions the previously prescribed BOC rates have been modified to reflect the plant transferred in conjunction with the AT&T divestiture.

Audio—1—Title: Application for review filed by Inter American Broadcasters, Inc. Summary: This Memorandum Opinion and Order reviews the Bureau's denial of a request for waiver of the AM minimum power requirement.

Audio—2—Title: A petition filed by El Sol Broadcasting, Inc., seeking review of action by delegated authority, accepting for filing the application of Midwest Broadcast Associates for a new AM station at Vernon Hills, Illinois. Summary: The Commission will consider a petition filed by El Sol Broadcasting, Inc., seeking review of the action of the Chief, Audio Services Division, acting pursuant to delegated authority, accepting for filing the application of Midwest Broadcast Associates for a new AM station at Vernon Hills, Illinois.

Video—1—Title: "Application for Review and Report" (CSC-229) filed April 20, 1983, by Continental Cablevision of New Hampshire, Inc. Summary: Continental Cablevision of New Hampshire, Inc. seeks review of *Continental Cablevision of New Hampshire, Inc.* (Concord, New Hampshire), Mimeo No. 3029, 53 RR 2d 747 (1983), in which Continental was found not to be exempt from an obligation to carry the signal of Station WNNE-TV (NBC, Channel 31), Hartford, Vermont.

Video—2—Title: "Petition for Reconsideration" filed December 16, 1983, by Clear-View Cable TV, Inc. Summary: Clear-View TV, Inc. seeks reconsideration of the Commission's denial of review of a forfeiture assessed against Clear-View for violation of § 76.12 of the Commission's Rules.

Policy—1—Title: Amendment of frequency assignment procedures in the Broadcast Remote Pickup Service to facilitate more efficient use of the available spectrum. Summary: The Commission will consider adoption of a *Notice of Proposed Rule Making* suggesting that channels with an authorized bandwidth 30 kHz or more be divided into channels of half the current bandwidth, and that the use of amplitude compandored single sideband (ACSB) be permitted.

Policy—2—Title: In the Matter of Compensation for Expenses Incurred in Mitigating the Effects of Cuban Interference to Services Rendered by AM Radio Stations in the United States. Summary: The Commission will consider the adoption of regulations establishing the requirements and procedures for compensation payments under Section 7 of the Radio Broadcasting to Cuba Act, Pub. L. No. 98–111, 97 Stat. 749 (1983). MM Docket No. 84–1.

Policy—3—Title: Amendment of Part 73 of the Commission's Rules and Regulations Concerning the Nighttime Power Limitations for Class IV AM Broadcast stations. Summary: The Commission will consider adopting a Report and Order concerning its proposal to increase the nighttime power limitation for Class IV broadcast stations from 250 watts to 1 kW.

Policy—4—Title: Elimination of television broadcasting station minimum aural power requirement. Summary: The Commission will consider amending its rules to permit television station aural power reduction below the current minimum requirement.

Policy—5—Title: Nighttime operations on Canadian, Mexican, and Bahamian AM Clear Channels. Summary: The Commission will consider adopting a *Notice of Proposed Rule Making* proposing to amend its rules to provide for technical standards and non-technical criteria for AM broadcast stations operating full time on newly available Canadian, Mexican, and Bahamian Clear Channels. The proposed amendments would also designate certain Class II stations as "Class II–C".

Enforcement—1—Title: Application for Review filed by United Church of Christ, *et al.* of the Mass Media Bureau's ruling of July 29, 1983. Summary: The Commission will consider whether or not to reverse the Bureau's ruling with respect to the requisite elements of a personal attack violation.

Enforcement—2—Title: License renewal applications of Stations KADE and KBCO–FM, KAVU–TV, KDHL and KDHL–FM, KLBK–TV, WKYV–FM and WLVS(FM). Summary: The Commission will consider whether the EEO programs of the above stations are sufficient and whether grant of their license renewal applications is in the public interest.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–6761 Filed 3–9–84; 10:58 am]

BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

March 8, 1984.

FCC to Hold a Closed Commission Meeting Thursday, March 15, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, March 15, 1984 following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Applications for Review of a Review Board Decision, FCC 83R–10, February 11, 1983 granting the application of Alamo Broadcasting Corporation (Alamo) for a new UHF television station in the San Antonio, Texas, comparative UHF proceeding (Docket Nos 81–647, 648 and 649).

Hearing—2—Petition for Reconsideration of Order denying an Application for Review, in the Roanoke, Virginia comparative UHF proceeding (Docket Nos. 81–46, 81–47).

Hearing—3—Applications for Review in the Evanston, Illinois, comparative renewal FM proceeding (BC Docket Nos. 81–157 and 81–158).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0:603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearing 1, January 11, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

Hearing 2, January 26, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

Hearing 3, March 7, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–6762 Filed 3–9–84; 10:58 am]

BILLING CODE 6712–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 7, 1984.

TIME AND DATE: 10 a.m., Wednesday, March 14, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Kitt Energy Corporation, Docket No. WEVA 83–65–R. (Issues include whether the judge erred in upholding a section 104(d)(2) order alleging a violation of 30 CFR 75.1722.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84–6765 Filed 3–9–84; 11:56 am]

BILLING CODE 6735–01–M

6

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (P.L. no. 94–409) and regulations of the Institute of Museum Services 45 CFR § 1180.84.

DATE: April 13, 1984.

ADDRESS: The Hermitage, Cabin-by-the-Spring, Nashville, Tennessee.

FOR FURTHER INFORMATION CONTACT: Michele N. Rossi, Executive Assistant to the National Museum Services Board, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506. (202) 786–0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act which is the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has the responsibility for general policies with respect to the powers, duties and authority vested by the Institute under this title. Grants are

awarded by the Institute of Museum Services after review by the Board.

The meeting of the Board is open to the public on April 13, 1984 from 10:00 a.m. to 5:00 p.m. The agenda for the meeting on April 13, 1984 will be as follows:

I. Approval of the December 9, 1983 minutes
II. Advanced Technology Report
III. Gerry George, American Association of State and Local History
IV. Director's Report
V. Update on Applications
VI. Challenge Grants
VII. Revenue Certification/Audit Procedures
VIII. Regulations Status Report
IX. Program Policy
X. Other Business

Susan E. Phillips,

Director.

[FR Doc. 84-6831 Filed 3-9-84; 3:55 pm]

BILLING CODE 7036-01-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-10]

TIME AND DATE: 9 a.m., Tuesday, March 20, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Collision of U.S. Coast Guard Cutter POLAR SEA and Barges, Seattle, Washington, September 10, 1983.

2. *Aricraft Accident Report*—Las Vegas Air Lines, Flight 88, Piper PA-31-350, Grand Canyon, Arizona, August 17, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

March 9, 1984.

[FR Doc. 84-6832 Filed 3-9-84; 3:58 pm]

BILLING CODE 7533-01-M

federal register

Tuesday
March 13, 1984

Part II

Department of Education

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of aproved systems of need analysis for academic year 1984–1985.

SUMMARY: The Secretary of Education announces approved need analysis systems that institutions of higher education must use in calculating a student's financial need during academic year 1984–1985 under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs. These programs are known collectively as the campus-based programs.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Paula Husselmann, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, SW., Room 4018, ROB–3, Washington, D.C. 20202, telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION: The campus-based programs are "need based" student financial aid programs. Under each program, an institution must determine whether a student has financial need. It determines need by subtracting from the student's educational costs, his or her expected family contribution, i.e., the amount the student and his or her parents may reasonably be expected to contribute toward his or her educational costs. Institutions determine a student's expected family contribution by using a need analysis system.

Prior to the 1982–1983 academic year, institutions participating in the campus-based programs were permitted to use any one of several need analysis systems approved by the Secretary for that purpose. The Secretary approved a need analysis system for the campus-based programs if it produced an expected family contribution that: (1) Increased incrementally as parents' financial strength, measured in constant dollars, increased and (2) was equal for families of equal financial strength. In addition, such a system has to produce expected family contribution amounts that came within $50 of the expected family contribution amounts determined by the Secretary in published sample benchmark cases, in at least 75 percent of those cases.

The Secretary was also directed by statute to publish a separate schedule of expected family contributions for the Pell Grant program only.

The Education Amendments of 1980, Pub. L. 96–374, amended the Higher Education Act by requiring that the Secretary develop and publish a single schedule of expected family contributions for the Pell Grant and campus-based programs. However, the Third Continuing Resolution for Fiscal Year 1982, Pub. L. 97–92, directed that for the 1982–1983 academic year, there not be a single schedule of family contributions for the Pell Grant and campus-based programs. The law directed the Secretary to approve separate need analysis systems developed by private organizations and agencies to be used by institutions under the campus-based programs.

For the 1983–1984 academic year, the Congress, in the Student Financial Assistance Technical Amendments Act of 1982, Pub. L. 97–301, again overrode the requirement enacted in the Education Amendments of 1980 that the Secretary establish one schedule of expected family contributions for the Pell Grant and campus-based programs. Section 4 of that Act provided that the Secretary "shall establish or approve separate systems of need analysis for academic year 1983–1984 * * * for the * * * (campus-based programs.)"

For the 1984–1985 and 1985–1986 academic years, the Congress in the Student Loan Consolidation and Technical Amendments Act of 1983, Pub. L. 98–79, again legislatively overrode the requirement in the Education Amendments of 1980 that the Secretary establish one schedule of expected family contributions for the Pell Grant and campus-based programs. Section 4 of that Act provides that the Secretary "shall establish or approve separate systems of need analysis for the academic years 1984–1985 and 1985–1986 for * * * (campus-based programs.)" Accordingly, the Secretary is approving separate systems of need analyisis under the authority of Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983, and the following program regulations: 34 CFR 674.13, 675.13, and 676.13 for the NDSL, CWS, and SEOG programs, respectively.

The systems listed below qualified as approved systems of need analysis under the above cited regulations for each program, or are approved under the following notices: the Notice of publication on sample cases and expected parental contributions for the approval of need analysis systems and notice of closing date for transmittal of information (**Federal Register** of September 20, 1983, 48 FR 42940–42941) and the Notice of Extension of closing date for transmittal of information (**Federal Register** of December 12, 1983, 48 FR 55312). To determine a student's expected family contribution under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for academic year 1984-85, an institution must use one of the following organizations' and agencies' systems of need analysis:

1. Academic Computing Systems, Inc., Dallas, Texas.
2. Advanced Process Laboratories, Omaha, Nebraska.
3. The American College Testing Program, Iowa City, Iowa.
4. The College Board, The College Scholarship Service, New York, New York.
5. Compugrant, Inc., Hiram, Ohio.
6. Diversified Financial Aid Services, Inc., Denver, Colorado.
7. Financial Analysis Service, Hiram, Ohio.
8. G. E. White Needs Analysis System, Lake Forest, Illinois.
9. The Graduate and Professional School Financial Aid Service (for graduate and professional students only), Princeton, New Jersey.
10. Information and Communications, Inc., SAFE System, Burbank, California.
11. M-Data, Inc., Cedar Springs, Michigan.
12. Miller Institute, The Miller Technology and Communications, Inc., Phoenix, Arizona.
13. Pan American University, Edinburg, Texas.
14. Pennsylvania Higher Education Assistance Agency, Harrisburg, Pennsylvania.
15. Proprietary Systems, Inc., Denver, Colorado.
16. Sigma Systems, Inc., Student Aid Management (SAM II) System, Los Angeles, California.
17. T.E.K. Computer Systems, Inc., Wurtsboro, New York.
18. Family Contribution (FC) printed on the Student Aid Report, United States Department of Education.

19. The method of calculating student aid indices uded in the Pell Grant Program (34 CFR 690), United States Department of Education.

20. The Income Tax System (dependent students only), United States Department of Education.

(Sec. 4 of Pub. L. 97-301)

Dated: March 7, 1984.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-6630 Filed 3-12-84; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
March 13, 1984

Part III

Department of Agriculture

Rural Electrification Administration

7 CFR Part 1794
Environmental Policies and Procedures; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1794

Environmental Policies and Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby adds 7 CFR Part 1794, Environmental Policies and Procedures, to its regulations. This new part replaces existing REA Bulletin 20–21:320–21 (Bulletin), Environmental Policies and Procedures, Part One which has served as REA's implementation of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). This action is taken to comply with the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500–1508).

REA's experience in using Part One of the Bulletin for the past three years strongly indicates that certain changes should be made in this agency's environmental review process. This set of procedures will reduce unnecessary regulatory requirements on recipients of financing assistance for the planning and construction of rural electric power and telephone facilities while maintaining the integrity of REA's environmental protection responsibilities. Format changes have been made to Part One of the Bulletin to enhance the readability and clarity of this final rule.

EFFECTIVE DATE: March 13, 1984.

FOR FURTHER INFORMATION CONTACT: Archie W. Cain, Director, or Kenneth M. Kumor, Environmental Policy Specialist; Engineering Standards Division; Rural Electrification Administration; Room 1256; South Agriculture Building; Washington, D.C. 20250. Telephone (202) 382–0096 or for Federal agencies (FTS) 382–0096. The Final Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available upon request from the above-named individuals.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees; 10.851—Rural Telephone Loans and Loan Guarantees; 10.852—Rural Telephone Bank Loans; 10.853—Community Antenna Television Loans and Loan Guarantees.

This final rule is issued under the authority of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA (40 CFR Parts 1500–1508) and Executive Order (EO) 11991, Protection and Enhancement of Environmental Quality.

The paperwork requirements contained herein have not received Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (94 Stat. 2812). At such time that approval is granted, the appropriate clearance number will be codified through a correction in the **Federal Register.**

REA has made a determination that the final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, state or local government agencies; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in domestic or export markets. The purpose and effect of this action is to reduce unnecessary regulatory burdens on parties who seek financing assistance for rural electric and telephone facilities. Therefore, the agency has determined that this action is not a "major" rule within the meaning of EO 12291, Federal Regulation.

This action does not fall within the scope of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Moreover, the final rule will reduce the burden imposed on regulated parties. REA has prepared an environmental assessment (EA) for the rule in accordance with NEPA and the CEQ regulations. On the basis of the EA, REA has made a finding of no significant impact (FONSI). The EA and FONSI are available for public inspection at the address given above.

Copies of the final rule are being sent directly to all REA electric and telephone borrowers, parties who have commented on proposed 7 CFR Part 1794 and others who have expressed an interest in receiving the final rule. Copies are also available upon request to the address indicated above. The final rule, supporting documentation and comments received by REA concerning the proposed rule shall be available for public inspection at the above location from 8:15 a.m. to 4:45 p.m., Monday through Friday, excluding holidays.

Background

On January 29, 1980, REA published Bulletin 20–21:320–21, Environmental Policies and Procedures, Part One as a final rule in the **Federal Register** (45 FR 6592). Based upon the agency's experience and review of the existing procedures, REA has determined that several changes are necessary in order for its environmental review process to operate in a smooth, efficient and effective manner. Due to the present requirements of Part One, sometimes REA has gone through a lengthy environmental impact statement (EIS) process with no commensurate benefit to the quality of the human environment. Consequently significant time and resources have been expended by REA and the organizations seeking REA financing assistance (Borrowers) when early indications strongly suggested a more expeditious procedure (*e.g.*, an EA) would be more prudent. This suboptimal efficiency has extended to several types of minor REA borrower proposals where subsequent experience has shown that the likelihood of environmental impact is negligible. In a few instances proposed projects have been delayed as a result of Part One requirements.

The provisions of 7 CFR Part 1794 contains REA's procedures to implement and supplement the CEQ regulations. It includes an Appendix A which provides a graphic presentation of the REA EIS process.

In developing the final rule, REA considered a number of alternatives to this action. The major reasonable alternatives included: (1) No change in Part One; (2) modification of Part One to make it more flexible and reclassification of project types (*i.e.*, the final rule); and (3) a change in the Part One definition of REA action so that many of the approvals made by REA concerning REA borrower (Borrower) proposals would lie outside the definition.

The first alternative would not significantly reduce unnecessary paperwork, delay and resource expenditures. The third would potentially have a significant adverse effect on the quality of the human environment and would be difficult if not impossible to implement from a legal viewpoint. Overall the final rule reaches the best balance between continued fulfullment of REA's environmental duties and its commitment to eliminate unnecessary paperwork and delay and make better decisions.

On November 2, 1982, a notice of proposed rule 7 CFR Part 1974, Environmental Policies and Procedures, was published in the **Federal Register** (47 FR 49651–49662). REA announced that the period for public review of and comment on the proposed rule would extend for sixty (60) days (January 3,

1983). During the comment period twenty (20) persons or groups submitted written comments on proposed 7 CFR Part 1794. Most of the statements contained specific and detailed suggestions for improving 7 CFR Part 1794 and indicated detailed and thorough review. Comments were received from a broad spectrum of interests including REA borrowers, environmental groups, national associations and Federal agencies.

REA carefully reconsidered 7 CFR Part 1794 in light of the written comments. The REA staff evaluated each of the comments and developed recommendations for responding to them. When after discussion and review, REA determined the comments raised valid concerns, the rule was altered accordingly. However, when the reasons for supporting language in the proposed rule were more compelling than those for changing the text, the provisions were left unchanged. Staff of CEQ was provided a copy of all written comments and consulted as to prospective changes for the final rule and compatibility with the CEQ regulations.

Below REA presents its responses to the concerns raised on the proposed rule. The discussion under *General Comments* provides this agency's response to general comments and clarification of misunderstandings as to REA's intent. The statements under *Comments on Specific Sections* address the more significant comments received on particular provisions and how REA responded to them. No comments were received on 7 CFR 1794.3, 1794.4, 1794.5, 1794.7, 1794.10, 1794.11, 1794.13, 1794.21, 1794.22, 1794.35, 1794.40, 1794.50, 1794.60, 1794.61, 1794.70, 1794.72, 1794.73, 1794.80–.85 and 1794.91. Few issues were the subject of comment by more than one party.

Because of the volume and diversity of comments received, REA is unable to address in this notice all issues raised. REA staff will be available to discuss such matters with interested persons.

General Comments

As stated earlier, 7 CFR Parts 1794 provides for compliance with NEPA, the CEQ regulations and other laws, regulations and Executive Orders. However, the Rural Electrification Act, 7 U.S.C. 901 *et seq.*, mandates and REA fully supports provision of electric and telephone service to rural consumers at a reasonable price. Consequently, REA has endeavored in 7 CFR Part 1794 and will continue to strive to develop and implement environmental procedures which are consistent with statutory requirements and yet place no undue cost or delay burdens on our Borrowers. As suggested in one comment, REA will continually monitor the operation of its environmental review process under this final rule. Where adjustments appear prudent to further streamline the procedures or more effectively carry out REA's environmental mandate, amendments to this rule will be proposed.

By far the most frequent issue addressed in the comments was the format of 7 CFR Part 1794. Over half of the parties mentioned this changed. All of them considered the new organization of REA's procedures to be a significant improvement over the agency's previous REA Bulletin 20–21:320–21, Part One. Reviewers should remember that this final rule implements and supplements the CEQ regulations but does not supersede them. Thus both the CEQ regulations and this final rule will apply to all REA borrowers proposals where an REA action is involved.

A suggestion was made that REA limit its environmental review of investor-owned utility (IOU) construction associated with Borrowers projects. Under the CEQ regulations REA is required to consider such IOU activities in its environmental review. Where the REA Borrower, REA or other Federal and State agencies have insufficient control or influence to obtain fully detailed information from the IOU, REA will use prudent means to assure that relevant information is gathered.

There was a recommendation that REA more actively consider and encourage its Borrowers to evaluate conservation as an alternative to small scale power generation. REA has encouraged and will continue to provide guidance to its electric Borrowers on promoting conservation among their consumer members. REA has issued guidance bulletins on the subject. In our environmental review of proposed power generating projects conservation is analyzed to determine whether it is a reasonable alternative to the Borrower's proposal.

As previously indicated 7 CFR Part 1794 supersedes REA Bulletin 20–21:320–21, Part One of January 29, 1980. When the old regulations were published in the **Federal Register** (45 FR 6592), there was an extensive preamble which discussed a wide variety of issues and gave considerable insight as to how REA intended to interpret and carry out the regulatory language. A question arises whether that guidance is also abolished by this final rule. Since a significant number of provisions in 7 CFR Part 1794 are unchanged or only slightly modified from REA Bulletin 20–21:320–21, Part One, readers are advised to carefully review the Preamble of the old regulations. To the extent that 7 CFR Part 1794 or the discussion under *Comments on Specific Sections* does not expressly revise, amend or supersede the interpretation of the January 29, 1980 preamble, such guidance remains relevant.

Comments on Specific Sections

In discussing § 1794.1, one commenter suggested that REA's environmental regulations should comply with the Farmland Protection Policy Act (FPPA) and incorporate it into the NEPA process where practicable. REA recognizes its responsibility under both FPPA and U.S. Department of Agriculture (USDA) Departmental Regulation 9500–3, "Land Use Policy", to take into account farmland, forest land and rangeland impacts. REA intends to incorporate the FPPA into its NEPA process where practicable. Implementing procedures will be issued after issuance of criteria by USDA as provided by Section 1541(a) of FPPA.

A number of commenters suggested that in § 1794.2 reference to lien accommodations and approvals provided pursuant to loan contracts and security instruments should be eliminated. This is an issue which has been raised for earlier REA environmental regulations. REA has again examined its position but has determined that the breadth of items defined as actions in the proposed rule is correct. There is no basis to declare that such activities are not "actions" for NEPA purposes.

One party suggested a monetary lower limit that must be surpassed to constitute an action under § 1794.2. REA disagrees since there is no direct linear relationship between funds expended and environmental impact. Projects deemed to have a remote chance of any environmental impact are found in § 1794.31(b).

As in the past, the public notice requirements now contained in § 1794.12 attracted a relatively great amount of interest. Some commenters indicated that requiring both a legal notice and paid advertisement is unnecessarily duplicative with little added public exposure to justify the added cost. One party endorsed the concept of legal notice plus paid advertisement. That commenter suggested REA specify the minimum frequency and number of newspapers to be used for the Borrower's notices. From REA's review it became clear that there are differences of opinion as to which is more valuable to the public, the legal notice or the paid advertisement. REA's

belief that the two vehicles reach different audiences has been given support by survey questionnaires distributed at a public scoping meeting. Consequently REA will retain the legal notice and paid advertisement requirement. One party complained that a newspaper put both the legal notice and advertisement on the same page. REA expects that such an occurrence will be rare and urges a Borrower to specify that it wishes the two items on separate pages. Alternatively the advertisement and legal notice may be placed in different editions.

On the other hand, it would be difficult to establish an inflexible standard for frequency of notice and number of newspapers to be used in providing adequate public notice. This section establishes minimum requirements, and nothing prevents a Borrower from using other forms of media to augment public information. The issue of adequate notice is important to REA's fulfillment of the procedural requirements of NEPA and the CEQ regulations. Consequently REA has added language in § 1794.12(b) to require consultation between REA and the Borrower before public notice of Environmental Impact Statement (EIS) and Environmental Assessment (EA) projects.

In preparing its paid advertisement, the Borrower should be sensitive to the need to provide adequate public notice. It is REA's intent that the paid advertisement be of reasonable size and prominence and not be placed in some obscure part of the newspaper. The language of § 1794.12(b) has also been modified to remove the impression that REA requires the paid advertisement and legal notice to appear in the same edition of the newspaper. There has also been a slight change in § 1794.12(c) which requires the Borrower to provide REA with the date(s) of publication. No publisher's affidavit is normally required for this purpose.

One reader indicated REA should indicate the acceptability of state and local environmental documents in § 1794.20(c). The conditions under which REA will adopt such documents are found in § 1794.84.

Another party felt that § 1794.30 which discusses the concept of control should exempt projects from an EIS requirement even where Borrowers will own more than 33⅓ percent of a project if the environmental process has already been conducted by another Federal EIS. The CEQ regulations do not permit an exemption from environmental review in such cases. However, REA may adopt another Federal agency's EA or EIS as provided in 40 CFR 1506.3 and §§ 1794.80–1794.85 of this Part. This agency does not intend to needlessly duplicate prior efforts. If another agency has promulgated an adequate Finding of No Significant Impact (FONSI) and EA which fairly consider the overall scope of the project being considered by REA, there would be no purpose in writing an EIS. Readers should note that the classifications of §§ 1794.31–1794.34 refer to the level of environmental review a certain type of project will *normally* require. In unusual and appropriate cases, REA has the discretion to undertake a different intensity of environmental study and review.

Section 1794.31 concerning categorical exclusions received the greatest amount and variety of public comment.

There are instances where an REA borrower enters into a long-term contract for fuel or other material (*e.g.*, limestone) for one of its generating facilities. Typically the Borrower is not concerned about the specific source of the fuel, but only the quality of the fuel, its price and whether the other party has a sufficient supply to fulfill the contract. As a result the relationship to or control over the mining operations or fuel reserves that the Borrower possesses is limited. A question arose as to how REA intends to treat such contract approvals. Is it a routine approval that is categorically excluded under § 1794.31(b)(2)? Alternatively, should not such agreements be treated as categorical exclusions?

Since we are dealing with a major fuel contract fundamental to the continued operation and viability of the generating facilities, this is not a routine approval under § 1794.31(b)(2). Many millions of dollars are at stake. On the other hand requiring extensive, costly and time-consuming environmental review when, as a practical matter, the Borrower has no control over the specific mining or fuel extraction operation is inequitable and serves no useful purpose. REA has inserted a categorical exclusion, § 1794.31(b)(6), to cover such coal contracts.

Borrowers have inquired about the impact of a dedicated reserves clause in the contract on the determination of whether the contract will be treated as a categorical exclusion. It is REA's view that the existence of a contractual right concerning dedicated reserves in an existing mine or an active mining area does not, by itself, establish that a Borrower has effective control. The determination of whether or not the Borrower has effective control or responsibility to alter development will be made on the basis of all facts and circumstances relevant to the contract and the underlying situation. For example, this categorical exclusion is not available where a Borrower sells its coal reserves to a mining company which then in turn provides the Borrower with coal from the mine. In such an instance the attempt to relieve the Borrower of control is in fact an exercise of control. Nor does the categorical exclusion apply to cases where a specific mine is used because of its special relationship to the generating facility (*e.g.*, mine mouth electric generation or a new mine in an area with little existing mining activity). Furthermore, this categorical exclusion does not exempt the mining operator from environmental requirements imposed by other Federal, state and local authorities as a condition for permitting the mine's operation.

In § 1794.31(b)(4), a number of persons suggested that the categorical exclusion be broadened to deficiency loans involving "no significant project changes" rather than "no project changes". REA can not concur in the specific language suggested but finds that some clarification of this categorical exclusion is warranted. This category was inserted for the narrow purpose of addressing cost escalation solely due to inflation or unforeseen construction difficulties or delays. The use of the term "significant" in the proposed context would be very difficult to administer, while "no project changes" fails to reflect reality. The typical major electrical generation construction project will have thousands of minor design and engineering changes with no environmental impact. Most of such changes will be covered by the categorical exclusions set forth in §§ 1794.31(b) (8) and (9). REA will require a description of the changes falling within §§ 1794.31(b) (8) and (9) which are covered by the deficiency loan. The agency reserves the right to require additional environmental documentation, review and procedures as a result of analyzing the description of changes. Moreover, this reservation of right attaches to each categorical exclusion where REA requires a project description for environmental purposes. Consequently, § 1794.31(b)(4) has been modified to: (a) Reflect the fact that certain portions of a deficiency loan may reflect project changes; and (b) suggest that the level of environmental review of a change requiring added funds will be determined based on the nature of the changes. Readers should also note that "or substitute" has been added to the § 1794.31(b)(4) categorical exclusion. This language covers situations where a Borrower merely

intends to alter financing sources with no increase (perhaps a decrease) in Federal involvement and exposure.

One party recommended that no Borrower's Environmental Report (BER) should be required for rehabilitation or reconstruction under § 1794.31(b)(5) only if preconditions for erosion and sediment control during and following construction have been specified. REA concurs and notes that the comment is equally applicable to a number of other categorical exclusions requiring no BER. As a result § 1794.41 has been changed to indicate that erosion and sedimentation control must be a part of the project description in appropriate instances.

Two commenters suggested that § 1794.31(b)(6) be changed to reflect the fact that many Borrower systems are now using 25 kilovolts (kV) as an electric distribution voltage. REA concurs in this observation. Moreover, a few Borrowers are planning to use a 34.5 kV distribution voltage for their systems. However, a 34.5 kV can transport a much greater amount of power and thus serve much larger individual loads. In REA's deliberations on the ultimate form and disposition of this category it became apparent that there is no simple way to differentiate service drops or line extensions to small individual customers from those intended to provide power to major industrial facilities, large shopping centers or residential subdivisions. Yet such major developments which may directly result from the availability of adequate electric power can have substantial impacts on such factors as endangered species. Consequently this categorical exclusion requiring no BER has been deleted. Service drops and secondary circuits will be covered by § 1794.31(c)(1) as they traditionally have been. The great majority of these facilities can be discussed in terms of generic impacts as a part of a BER covering a Borrower's multiyear work plan.

In a few instances a project that can qualify under §§ 1794.31(b) (7), (9) or (10) may involve fuel or oil storage facilities. REA concurs with the comment that the agency should be concerned about prevention and control of spills in such cases. This is the purpose of requiring the Borrower to provide a description of the project facilities. Although no BER is normally required under § 1794.31(b), it does not prohibit further environmental review in appropriate instances.

It was pointed out that if a microwave tower were built at an existing substation it would appear that no BER would be required under § 1794.31(b)(7). On the other hand, the tower would require a BER if it was located at a new site under § 1794.31(c)(4). REA sees no inconsistency or need to change these provisions. § 1794.31(b)(7) requires a description of the changes at the substation. REA has the discretion to seek further environmental information based on the project description. In the case of a microwave tower, REA, at a minimum, would require Federal Aviation Administration requirements compliance regardless of location.

A little confusion arose from the langauge of § 1794.31(b)(7). As correctly pointed out by one commenter the 0.4 hectare limitation applies not only to external building and structure changes but also substations and switching stations. A slight language change has been made for clarity, but it would be cumbersome to insert the 0.4 hectare limit after each item.

One organization argued that research and development (R&D) facilities such as fluidized-bed combustion generating facilities at existing plant sites should be made a categorical exclusion under § 1794.31(c). The party cited the potential to make a major breakthrough in cleaning up coal-fired power plant emissions. Laudable as the commenter's goals may be, REA cannot characterize such R&D projects as categorical exclusions. While in theory new alternative technologies may be superior to existing ones in certain environmental respects, typically they have greater environmental impacts in other ways. Projects such as fluidized-bed combustion are not benign in every respect. Moreover, being an R&D facility, the projected environmental improvements have yet to be demonstrated. Neither NEPA nor the CEQ regulations provide special treatment for R&D facilities. One important aspect of any R&D energy production project is an assessment of its environmental impacts. Consequently REA will not treat R&D facilities differently from those using conventional technology. Readers should also note that REA would not consider fluidized-bed power generation to be a proposal designed to reduce the amount of pollutants released into the environment within the meaning of § 1794.31(c)(10) or § 1794.31(a)(8). This is a fundamental generating technology rather than a pollution control facility.

A Federal agency suggested that the categorical exclusion under § 1794.31(c)(1) should be limited to projects involving narrow rights-of-way and environmentally insensitive areas. REA believes there is no need for these added limitations. An adequate BER will identify areas of environmental sensitivity. Where the proposal promises to create unusually adverse impacts, REA retains the discretion to prepare an EA.

In comparing area limitations in various categories of § 1794.31(c), a question arose whether there was a discrepancy in these limits that can not be justified by differences in anticipated impacts. REA's review of these categories disclosed an inconsistency between the § 1794.31(c)(1)(B), § 1794.31(c)(4) and § 1794.31(c)(11) limits that is not justified by anticipated impacts. Consequently the limit has been raised to 2 hectares (4.94 acres) in §§ 1794.31(c)(4) and § 1794.31(c)(11).

REA has accepted the recommendation that there be no voltage limitation for § 1794.31(c)(2) short electric power line categorical exclusions. While power lines above 345 kV are more visually obtrusive, much of the environmental controversy surrounding such lines has arisen from issues of need, health and safety and electromagnetic effects. Lines above 345 kV are economical only for moving large amounts of power over great distances. Short lines of such voltages are constructed only as tap lines or interconnections of the bulk power transmission system. Typically an EIS or EA previously has been prepared to examine the environmental impacts of the long trunk lines to which these short lines will be connected. Issues of health, safety, electromagnetic impacts and facility aesthetics will have been adequately addressed in this earlier environmental review. Moreover, such effects are more directly related to the voltage of the line rather than its length. Where such underlying documents exist, a rehash of these issues is unnecessarily duplicative and would normally not justify an EA or EIS. In essence, this is an instance in which a form of tiering (see 40 CFR 1502.4(d), 1502.20, 1508.28) is most appropriate. The environmental review of the long truck lines considered the generic impacts associated with given voltages in that region. The new BER will serve to identify those cases in which a particularly sensitive area may be traversed by the short tap line or interconnection.

Nearly half of the responses addressed § 1794.31(c)(6) which deals with Borrower purchase of existing facilities. Their uniform thrust was that a BER is necessary to determine whether an existing facility is in environmental "compliance". However, once such compliance is shown no further environmental review should be conducted. There is no need for an EA, and REA should not be requiring added

mitigation if the facility is in compliance. REA partially agrees with the comments and normally no EA will be prepared for a facility operating in compliance. The BER, however, also serves other purposes. It serves as a vehicle to explore other alternatives available to the Borrower. While the facility may be in compliance, it may have greater environmental impacts than reasonable alternatives. In addition, the fact that an existing facility is operating in compliance does not absolve REA of the duty to specify practicable mitigation measures under certain environmental laws and regulations. For example, an existing facility may lie in a floodplain but not have adequate floodproofing since it was constructed prior to Executive Order (EO) 11988, "Floodplain Management". Under EO 11988 REA would still have a duty to specify practicable and prudent measures to minimize impacts on floodplain values.

Three parties questioned the categorical exclusion for reconductoring or upgrading in § 1794.31(c)(9). They argued that no BER should be required if the same support structures are used. In addition, the categorical exclusion should be broadened to cover all cases where the same right-of-way is used. REA cannot agree and § 1794.31(c)(9) remains unchanged except for language to clarify the treatment of existing support structures. Within a right-of-way there can be considerable cultural resource, wetland, endangered species and other such concerns. Therefore, this category was restricted to a smaller area within the right-of-way. Even where the same structures are used there may be, for example, sensitive wildlife seasons during which construction should be avoided or certain techniques that should be used when traversing wetlands. However, REA intends that the required BER be of a limited nature because of the narrow range of anticipated impacts. In addition to a project description and discussion of alternatives, normally the BER need only discuss potential impacts to wildlife and endangered species, wetlands, cultural resources and floodplains.

One commenter took issue with REA's treatment of hydroelectric facilities as presented in §§ 1794.32(a)(2), 1794.33(a)(1), 1794.33(a)(2) and 1794.34(a)(2). In summary it was stated that hydroelectric facilities are fundamentally different from other generating facilities and that adjustments of categorical limits should not necessarily match those for other facilities. The commenter suggested that REA's past 2½ years of experience are insufficient to make adjustments of hydroelectric limits and there should be scoping on all new hydroelectric projects of less than 5 megawatts. It was recommended that REA adopt practices and criteria more similar to those of the Federal Energy Regulatory Commission (FERC) in conducting environmental review on hydroelectric projects. REA agrees with a number of the commenter's observations. There is a strong argument that the dividing lines for hydroelectric project environmental review should not necessarily be the same as for other types of generating projects.

Since FERC has more experience with hydroelectric projects than REA, its criteria should be given considerable deference. REA has carefully reviewed the FERC regulations and has adjusted its categories to reflect this analysis.

Hydroelectric facilities have been divided into three groups: (1) New dams or hydroelectric projects, (2) modification of an existing hydroelectric project or dam which will result in a change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment, and (3) modification of an existing hydroelectric project or dam which will result in *no* change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment. Within each of the groups, REA then considered differentiation of environmental review on the basis of hydroelectric capacity. For the second category (*i.e.*, modify an existing facility with an impoundment change), REA is unable to differentiate at the outset of the environmental review process between projects. Thus all such proposals are treated initially as proposals normally requiring an EA without scoping. If REA's review finds that the change in normal maximum surface area or normal maximum surface elevation is significant, the proposal will then be treated as if it were a new dam or hydroelectric project. REA believes there is insufficient reason to routinely invoke scoping for all new hydroelectric projects. Through REA's environmental assessment process, the public is afforded an opportunity to comment on the BER for new hydroelectric projects of 5 megawatts or less. Moreover, extensive Federal, state and local agency consultation occurs in the preparation of the BER. Should substantial environmental issues be raised REA has the discretion to undertake scoping under § 1794.51(a).

REA has accepted the recommendation that diesel generators of less than 3 megawatts installed at an existing site should not require an EA under § 1794.33(a)(1). A new categorical exclusion, § 1794.31(c)(12), has been created. However, REA can not agree with the observation that an EA should be required under § 1794.33(a)(8) only if there may be "other significant impacts outside of the existing facility site". The EA will be used to determine the significance of impacts.

One party responded that combustion turbines and diesel units of 40 megawatts or more fall within no category. It recommended that these projects be placed in the EA with scoping category. REA concurs. Inadvertently a clause of the proposed rule was left out in publication of the **Federal Register** notice that established such a classification.

A suggestion was made that REA define "wetlands" and "floodplains" as used in §§ 1794.41 and 1794.42. REA intends "wetlands" and "floodplains" to have the same meanings as used in Executive Order (EO) 11988, "Floodplain Management", Executive Order 11990, "Protection of Wetlands", and *Floodplain Management Guidelines for Implementing E.O. 11988 of* February 10, 1978 (43 FR 6030).

Three groups suggested that REA delete the notice requirements for projects affecting wetlands and floodplains unless there is a statutory or regulatory duty that REA impose such a burden. Alternatively these parties would limit notices to cases where there is a significant impact on wetlands or floodplains. REA has made a slight change in §§ 1794.41 and 1794.42 to indicate that notice is required only if the project is located in and affects floodplains or wetlands. This notice requirement is imposed by EO 11988 and EO 11990 which prescribe duties on Federal agencies on the basis of "effect" rather than "significant effect". REA does not consider pole-type construction or buried cable located in a floodplain to have an adverse effect on floodplain values.

There was a suggestion that scoping should only be used after it has been determined that an EIS is necessary. While scoping is traditionally used for EIS projects, CEQ does not prohibit its use for EA projects (see 40 CFR 1501.7(b)(3)). REA has determined that the types of projects presented in § 1794.34 often will require an EIS. By initiating scoping early in the planning process for this group, time will be saved in the event an EIS is necessary, and environmental review will be more comprehensive.

The need for an Alternative Evaluation document as specified by § 1794.51(d) was questioned. The commenters maintained that CEQ does not require it, and the EIS is the document that will present the range of alternatives. Based on this agency's experience and its evaluation of the CEQ regulations, REA has determined to retain this requirement. REA must insure that the Borrower has considered other technological alternatives and potential energy conservation at a relatively early stage in the NEPA process. Otherwise: (1) Agencies and the public will be unable to adequately comment on the proposal during the scoping process, and (2) there is a possibility that if consideration of such options is delayed to the EIS preparation stage, treatment of such alternatives will be perfunctory and designed primarily to legitimatize the basic proposal.

One commenter indicated that § 1794.52 assumes sufficient agency and public interest to warrant a scoping meeting. It recommended that REA first determine whether there is sufficient interest before scheduling such meetings. REA recognizes that there may be a few instances where agency and public interest are lacking. However, given the nature of projects requiring scoping, from REA's experience this should be a rare situation. It would be difficult to determine beforehand that there is little public interest in a proposal. Morever, demonstrated lack of interest in the scoping meeting can be a good indication that agencies and the public have few environmental concerns about a proposal.

One organization indicated that in § 1794.52(a)(1) the word "preferred" suggests an REA bias. Moreover, neither REA nor the Borrower should be required to state an early preference, thereby preventing escalation of real estate price. In response the language has been changed to indicate that the Borrower's desired alternatives, if any, must be specified. Commonly, the Borrower at this point will have narrowed its primary considerations to a relatively small number of "reasonable" alternatives which appear to best fulfill the underlying need and meet economic, environmental and technical criteria. REA does not intend that a borrower must select a single favorite early in the scoping process. However, if based on analysis it has a strong preference, that option should be publicly disclosed as its "recommended" alternative. Similarly REA has no preference at such a stage. REA's procedures permit a Borrower under certain restrictions to purchase property prior to scoping meetings. Given this opportunity to secure property rights before public notice, on balance disclosure of the Borrower's desired alternatives is advisable since it will focus agency and public scrutiny on the most likely options. For purposes of flexibility, generally the recommended and reasonable alternatives need not be identified at a level of detail indicating specific tracts or route centerlines. However, these site and corridor options should be described with sufficient specificity to alert local agencies and the general public in the localities likely to experience direct and substantial impacts from the proposal.

In response to a comment, language has been inserted in § 1794.52(d) to permit the Borrower to comment on the adequacy and emphasis of the suggested scope. However, the Federal agencies will ultimately determine what is necessary to carry out their environmental responsibilities.

For § 1794.53(a), a comment was made that language should be added indicating that the Environmental Analysis will be prepared as specified by the scope developed by REA. No change has been made in the final rule. The scope will certainly serve as a foundation for the Environmental Analysis. However, as the environmental review process advances, REA staff may need to suggest certain changes in the study to reflect new information or circumstances.

Commenters stated that for § 1794.54(a)(5) and other provisions where both a U.S. Environmental Protection Agency (EPA) and Borrower's notice are required, REA should notify the borrower as soon as the notice is published. REA agrees with the comment but does not believe added language is necessary. It is REA's policy to inform the Borrower as soon as the environmental documents have been delivered to EPA for its notice.

Another comment concerned the specified starting point for the time period described in § 1794.54(a)(5) and elsewhere. It was suggested that only the EPA date be used. REA cannot agree. Since neither REA nor EPA publish their notices in local newspapers, the general public in the area of a project is normally not aware of the EIS's availability until publication of the Borrower's notice. The public's opportunity to comment should not be abridged because a Borrower's notice first appears long after the EPA notice.

Two parties responded that the Borrower should have a voice in the selection of the party who will write the EIS under § 1794.54(d). Specifically, REA should either get the Borrower's clearance or have the Borrower select the party with REA's approval. The CEQ regulations (40 CFR 1506.5(c)) do not permit the Borrower to select or have veto power over the selection of a contractor to prepare an EIS. The lead agency and/or cooperating agencies must make the selection and insure that there is no conflict of interest.

An organization suggested that the regulations § 1794.55(a) should require that the Record of Decision (ROD) be issued within 45 days of the notice of the final EIS. REA has decided not to impose such a requirement since it prevents flexibility. In all instances REA attempts to issue the ROD as expeditiously as possible. However, comments on the final EIS may result in disputes or issues which may take more than 45 days to resolve. Moreover, an arbitrary time limit does not foster better decisionmaking.

As pointed out by one commenter, § 1794.62(c) of the proposed rule (which limits interim borrower activities) should have been inserted instead as § 1794.63(c). The final rule corrects this inadvertent error.

One Federal agency suggested that in § 1794.71 REA should give guidance as to the criteria it will use to determine whether an EIS or finding of no significant impact is required. REA will apply the criteria set forth in the CEQ regulations (*e.g.*, 40 CFR 1508.7, 1508.8, 1508.25, and 1508.27). The specific basis for an REA decision not to prepare an EIS will be provided in the EA and FONSI. For § 1794.34 projects (EA with scoping) the public will be given thirty (30) days to comment before a final action is taken.

This same agency suggested that in § 1794.90(b) limiting language should be stricken so that a notice of intent will be published for all supplemental EIS's. After careful review, REA has decided to make no change. When a ROD has already been issued, agencies and the public are led to believe that the environmental review process has been essentially completed. In such a case the notice of intent to prepare a supplement serves the purpose of indicating that the environmental review process will be reopened.

Where an ROD has not been issued, the agency and public perception is that environmental evaluation is continuing. As such, a notice of intent to prepare a supplement serves little purpose other than to cause expenditure of time and resources. Readers should note that the language does not prohibit REA from

issuing a notice of intent in appropriate instances.

A minor change has been made in § 1794.90(a) to clarify REA's intent. In 40 CFR 1502.9(c)(4) CEQ indicates that scoping is not mandatory in the preparation of a supplement to an EIS. REA concurs with that position and has made that fact explicit in the final rule.

Finally one party noted that project need is mentioned several times in Appendix A. It argued that language should be inserted to indicate that need information contained in environmental documents is only for descriptive purposes since need determination and validation are not the purpose of environmental review. REA cannot agree. Information presented on need in the EIS is not purely for descriptive purposes. It is true that need determination and validation are conducted by REA using a formal process performed in parallel with NEPA and other environmental review. However, from REA's experience need for the project is often one of the major issues identified during the scoping process. Consideration of need is necessary to determine whether the "no action" alternative is a reasonable option. Consequently no final EIS will normally be issued without an REA determination of need for the project.

List of Subjects in 7 CFR Part 1794

Administrative practice and procedures, Cable television, Electric power plants, Electric utilities, Environmental protection, Loan programs—communications, Loan programs—energy, Telecommunications, Telephone.

Therefore in view of the above, REA adds 7 CFR Part 1794, Environmental Policies and Procedures.

PART 1794—ENVIRONMENTAL POLICIES AND PROCEDURES

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Appendix A—Procedure for proposals which normally require an EIS.

Authority: National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*); Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508); Executive Order (EO) 11988, "Floodplain Management"; and EO 11990, "Protection of Wetlands".

Subpart A—General

§ 1794.1 Purpose.

This Part contains the policies and procedures of the Rural Electrification Administration (REA) for implementing the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508); and certain related statutes, regulations and orders. Among those statutes, regulations and orders are the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Advisory Council on Historic Preservation regulations on Protection of Historic and Cultural Properties (36 CFR Part 800); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order (EO) 11514, "Protection and Enhancement of Environmental Quality"; EO 11593, "Protection and Enhancement of the Cultural Environment"; EO 11988, "Floodplain Management"; EO 11990, "Protection of Wetlands"; and the Farmland Protection Policy Act (Pub. L. 97–98).

§ 1794.2 Actions requiring environmental review.

The provisions of Part 1794 apply to proposed administrative actions by REA including, without limitation, loans, loan guarantees, reclassification of loan funds, lien accommodations, and approvals provided pursuant to loan contracts and security instruments (*e.g.*, approvals of the use of the general funds).

§ 1794.3 Compliance.

The effective date of provisions contained in Part 1794 is the date of publication of the final rule in the Federal Register. Any environmental document accepted or prepared by REA prior to the effective date may be developed in accordance with the REA environmental requirements in effect at the time the document was accepted or prepared by REA.

§ 1794.4 Trivial violations.

It is the intent of this part that a trivial violation of its provisions will not give rise to an independent cause of action.

§ 1794.5 Responsible officials.

The agency contact points for environmental matters shall be the Assistant Administrator, Electric or Telephone (as appropriate); Rural Electrification Administration; U.S. Department of Agriculture; South Building, Washington, D.C. 20250. The

Assistant Administrators, Electric and Telephone, are responsible for determining the proper definition of proposals and the need for the preparation and approval of draft Environmental Impact Statements (EIS). Final EIS's will be issued and approved by the Administrator.

§ 1794.6 Metric units.

It is REA's policy to prepare environmental documents using metric units with British system equivalents in parentheses. Environmental documents prepared by or for an REA borrower (Borrower) should follow the same format.

§ 1794.7 Guidance.

For further guidance in the preparation of notices and environmental documents REA has prepared an REA Environmental Guide. A copy of this REA Environmental Guide is available upon request to the Assistant Administrator, Electric or Assistant Administrator, Telephone; Rural Electrification Administration; U.S. Department of Agriculture, Washington, D.C. 20250.

Subpart B—Implementation of the National Environmental Policy Act

§ 1794.10 Apply NEPA early in the planning process.

The environmental review process requires early coordination with and involvement of REA. Borrowers should consult with REA at the earliest stages of planning for any proposal which may require REA action. Since planning efforts and environmental evaluation for power supply facilities, including power plants, transmission lines, coal or other fuel development, are interrelated, these activities should take place within the same time frame.

§ 1794.11 Consideration of alternatives.

In determining what are reasonable alternatives, REA will consider a number of factors including, but not limited to, state of the technology, availability of resources and the time frame in which the identified need must be fulfilled.

§ 1794.12 Public involvement.

In carrying out its responsibilities under NEPA, REA shall make diligent efforts to involve the public in the environmental review process through the following means:

(a) REA notices required by Part 1794 shall be published in the **Federal Register** and shall describe the nature, location and extent of the proposed action and indicate the availability and location of additional information.

(b) Borrower's notices, when required by this part or otherwise required by REA, shall consist of both a legal notice and a paid advertisement published in a timely manner in a newspaper or newspapers of general circulation in the counties in which the proposal will take place or such other places as REA determines. It shall generally describe the nature, location and extent of the Borrower's proposal and indicate the availability and location of additional information. If both the paid advertisement and legal notice appear in the same edition, the advertisement need not be lengthy and can refer the reader to the legal notice for a more detailed explanation. The Borrower shall consult with REA prior to issuance of Borrower's notices where an EIS or Environmental Assessment (EA) will be prepared.

(c) The Borrower shall submit to REA, as soon as practicable after publication, copies and publication dates of all Borrower's legal notices and paid advertisements published. A copy of all comments received by the Borrower (including the Borrower's position, if any) concerning environmental aspects of the proposal shall be provided to REA in a timely manner.

(d) Public hearings or meetings may be held at reasonable times and locations concerning environmental aspects of a proposed action in all cases where, in the Assistant Administrator's opinion, the need for hearings or meetings is indicated in order to develop adequate information on the environmental implications of the proposed action. The following shall be required in connection with a meeting or a hearing:

(1) Where an environmental document is the subject of the hearing or meeting, that document will be made available to the public at least ten (10) days in advance.

(2) Any person, organization or government body desiring to make a statement at the hearing or meeting may make such statement in writing or orally. Public hearings or meetings normally will be informal and will generally be confined to the environmental aspects of the proposal.

(3) REA notice shall be published at least thirty (30) days before the hearings or meetings. The Borrower's notice of the hearings or meetings shall be published at least ten (10) days but no more than thirty (30) days before the hearings or meetings. REA shall determine the counties in which the Borrower's notice shall be published in newspapers of general circulation to assure that persons most likely to be affected by the proposal will be made aware of the hearings. The notice shall present the date, time, location and purpose of the hearing or meeting. If an environmental document is the subject of the hearing or meeting, the notice shall inform the public where it can be obtained or is available for review.

(e) A list of REA administrative actions for which EIS's and EA's are being prepared or contemplated will be available for public inspection at REA's offices in Washington, D.C.

§ 1794.13 Interagency involvement.

In carrying out its responsibilities under NEPA, REA shall, to the extent practicable, coordinate its environmental review and combine its meetings and hearings with those of other Federal, state and local agencies. The Borrower shall inform REA of potential involvement of other agencies in the proposal at the earliest practicable time to facilitate such coordination.

Subpart C—Provisions Applicable to EA or EIS Preparation

§ 1794.20 Interagency coordination.

(a) Whenever practicable, REA will encourage the use of a lead agency in preparation of an EIS or EA so that a single document and review process will cover all Federal agency actions arising from the proposal or directly related group of proposals. It is the policy of REA to volunteer to act as lead agency in the preparation of an EA or EIS when the Borrower so requests, and when REA would normally prepare an EA or EIS for the proposal.

(b) Where REA acts as a cooperating agency, REA shall rely upon the lead agency's procedures for implementing NEPA and CEQ regulations in the preparation and issuance of an EA or EIS, unless the lead and cooperating agencies agree to a modification of these procedures.

(1) REA shall request that the lead agency indicate that REA is a cooperating agency in all NEPA related notices published for the proposal. In addition, REA shall request that the lead agency permit REA to review and comment on the EA or draft and final EIS prior to issuance.

(2) The Borrower shall inform REA in a timely manner of its involvement in a proposal where another Federal agency is preparing an EIS or EA to permit REA to adequately fulfill its duties as a cooperating agency.

(c) Where practicable and in order to eliminate duplication and delay, REA will coordinate its NEPA process with state and local environmental

procedures. Where state or local agencies control siting of electric transmission lines or electric generating stations, REA shall consult and coordinate with those state and local agencies in determining what are the reasonable siting and route alternatives.

§ 1794.21 Limitations on actions during the NEPA process

In determining which Borrower activities related to a proposal requiring development of an EA or EIS may be approved prior to completion of the NEPA process, REA must determine, among other matters that:

(a) The activity will not have an adverse environmental impact. For example, purchase of water rights, optioning or transfer of land title, or continued use of land as historically employed will not have an adverse environmental impact. However, site preparation or construction at or near the proposed site (*e.g.*, rail spur) or development of a related facility (*e.g.*, opening a captive mine) normally will have an adverse environmental impact.

(b) The expenditure is "minimal." To be minimal the expenditure:

(1) Must not exceed the amount of loss which the borrower could absorb without jeopardizing the government's security interest in the event the proposed project is not approved by the Administrator, and

(2) Must not compromise the objectivity of REA's environmental review. Notwithstanding other considerations, expenditures up to 10 percent of the proposed project cost normally will not compromise REA's objectivity.

§ 1794.22 Tiering.

It is REA's policy to tire EIS's and EA's where:

(a) It is practicable, and

(b) There will be a reduction of delay and paperwork, or where better decisionmaking will be fostered.

Subpart D—Classification of Proposals

§ 1794.30 Control.

For environmental review purposes, REA has identified and set forth categories of Borrower proposals. A Borrower or Borrowers may propose to participate with other parties in the ownership of a project where the Borrowers do not have sufficient control and responsibility to alter the development of the project. In such a case the proposal will be considered a categorical exclusion regardless of the category into which the proposal would otherwise be included. Where the Borrowers propose to cumulatively own 5 percent or less of a project, the proposal will normally be considered a categorical exclusion. Where the Borrowers propose to cumulatively own 33⅓ percent or more of a project, the proposal will be treated in its usual category. Where the Borrowers propose to cumulatively own more than 5 percent but less than 33⅓ percent of a project, REA will determine whether the Borrowers have sufficient control and responsibility to alter the development of the project. Consideration will be given to such factors as: (a) Whether construction would be completed regardless of REA financing assistance; (b) the stage of project planning and construction; (c) total Borrower participation; (d) participation percentage of each utility in the project; and (e) managerial arrangements and contractual provisions.

§ 1794.31 Categorical exclusions (proposals normally requiring neither an EIS nor an EA).

(a) Borrower proposals that do not individually or cumulatively have a significant effect on the environment and do not normally involve significant unresolved conflicts concerning alternate use of available resources, do not require an EIS or EA. In order to provide for extraordinary circumstances, such proposals may require development of a Borrower's Environmental Report (BER) or the equivalent.

(b) Certain types of Borrower proposals do not require a BER. Proposals of this type are subject to the requirements of § 1794.41. Proposals within this classification are:

(1) Purchase of land where use will remain unchanged.

(2) Routine approvals made pursuant to loan and security documents (*e.g.*, contracts for bulk commodities, fuel, goods and services, capital credit retirements, technical specifications).

(3) Agreements for transmission, wheeling, interconnection with, power purchase from, or sale to other utilities where no associated Borrower construction or financing of construction is involved.

(4) Additional or substitute financing assistance for proposals which have previously received environmental review and approval from REA, provided that environmental considerations have not changed.

(5) Rehabilitation or reconstruction of roads, railroad tracks, roadbed, bridges and other transportation facilities within transportation rights-of-way or generating facility sites where there is no substantial increase in use. A description of the rehabilitation or reconstruction shall be provided to REA.

(6) Primary fuel or mineral contracts where, considering all the facts and circumstances, the Borrower does not have effective control over or responsibility to alter the development of the specific fuel or mineral source (*e.g.*, mine).

(7) Changes or additions to existing substations or switching stations or external changes to buildings or small structures requiring new physical disturbance or fencing of less than 0.4 hectare (0.99 acre). A description of changes and additions shall be provided to REA.

(8) Internal modifications or equipment additions (*e.g.*, computer facilities, relocating interior walls) to small structures or buildings.

(9) Internal or minor external changes to electric generating or fuel processing facilities and related support facilities where there is negligible impact on the outside environment. A description of the changes shall be provided to REA.

(10) Ordinary maintenance or replacement of equipment or small structures (*e.g.*, line support structures, microwave facilities, valves).

(11) The construction of telephone and communication lines and cables at existing power related facilities sites.

(12) Supervisory control and data acquisition systems (SCADA) and energy management systems involving no new external construction.

(13) Testing work (*e.g.*, test borings or cores, water test wells).

(14) Studies and engineering undertaken to define a proposal or alternatives sufficiently so that environmental effects can be assessed.

(15) The construction of electric power lines within an existing substation, switching station or electric generating facility site. A description of the facilities to be constructed shall be provided to REA.

(16) Contracts for certain items of equipment which are part of a proposal for which REA is preparing an EA or EIS, and which meet the limitations on actions during the NEPA process set forth in § 1794.21 (*e.g.*, long lead time items such as turbines or boilers).

(17) Internal REA administrative actions (*e.g.*, personnel actions, procurement) and REA bulletins that do not concern environmental matters or substantial facility design, construction or maintenance practices.

(c) Certain types of Borrower proposals normally require Borrower submission of a BER or its equivalent. Proposals of this type are subject to the requirements of § 1794.42. Proposals within this classification are:

(1) The construction of electric power lines and associated facilities designed for or capable of operation at a nominal voltage of either:

(i) Less than 69 kV (low side) or

(ii) Less than 230 kV (low side) if both:

(A) No more than 40 kilometers (24.85 miles) of power line are involved, and

(B) Substations and switching stations require new physical disturbance or fencing of no more than 2 hectares (4.94 acres) at any single site nor more than 4 hectares (9.88 acres) for all sites.

(2) The construction of electric power lines where less than 5 kilometers (3.11 miles) of line are involved.

(3) The construction of telephone and communication lines, cables and facilities.

(4) The construction of other small structures or buidings such as microwave facilities, cooperative headquarters, maintenance facilities, etc., involving no more than 2 hectares (4.94 acres) of physical disturbance or fencing.

(5) Participation by a Borrower(s) in any proposed project where total Borrower financial participation in the underlying project will be five (5) percent or less.

(6) Purchase of existing facilities or a portion thereof where use or operation will remain unchanged and which presently are in compliance with environmental laws and regulations.

(7) Additional bulk commodity storage (*e.g.*, coal, peat, lignite, limestone, etc.) within existing generating station boundaries.

(8) SCADA and energy management systems which require new external construction.

(9) Reconductoring or upgrading of existing telephone or power lines where either the same or substantially equivalent support structures at the approximate existing support structure locations are used.

(10) Proposals designed to reduce the amount of pollutants released into the environment (*e.g.*, precipitators, baghouse or scrubber installation, coal washing plant and equipment) which have no other environmental impact outside of the existing facility site.

(11) Changes or additions to existing substations or switching stations or external changes to buildings or small structures requiring 0.4 hectare (0.99 acre) or more but no more than 2 hectares (4.94 acres) of new physically disturbed land or fenced property.

(12) Construction of diesel electric generating facilities of less than 3 megawatts (MW) (nameplate rating) at an existing generating site. All new associated facilities and electric power lines related to the generating proposal shall be covered in the BER.

(13) Modification of an existing hydroelectric project or dam that will have a total installed capacity of 1.5 MW (nameplate rating) or less and which will result in no change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment. All new associated facilities and electric power lines related to the generating proposal shall be covered in the BER.

§ 1794.32 Proposals normally requiring an EIS.

(a) Actions that may significantly affect the quality of the human environment require preparation of an EIS. An EIS normally will be required in connection with Borrower proposals for construction and operation of the following types of facilities:

(1) New electric generating facilities of 40 MW or more (nameplate rating) other than diesel generators or combustion turbines. All new associated facilities and electric power lines related to the generating proposal shall be covered in the EIS.

(2) A new mining operation when the Borrower or Borrowers have effective control (*e.g.*, dedicated mine or purchase of a substantial portion of the mining equipment).

(b) Proposals of this type are subject to the requirements of §§ 1794.50–1794.55.

§1794.33 Proposals normally requiring an Environmental Assessment without scoping.

(a) REA will normally prepare an EA for all proposals which are neither categorical exclusions (§ 1794.31) nor are proposals normally requiring an EIS (§ 1794.32). For certain actions within this class, scoping and document procedures set forth in §§ 1794.50–1794.53 shall be followed (see § 1794.34). The following are examples of specific Borrower proposals which normally require an EA without scoping.

(1) Construction of combustion turbine and diesel generating facilities of less than 40 MW (nameplate rating), except for diesel generating facilities of less than 3 MW (nameplate rating) at an existing generating site. All new associated facilities and electric power lines related to the subject generating proposal shall be covered in the EA.

(2) Construction of any other type of new electric generating facilities of less than 5 MW (nameplate rating). All new associated facilities and electric power lines related to the subject generating proposal shall be covered in the EA.

(3) Modification of an existing hydroelectric project or dam if:

(i) The project or dam will have a total installed capacity of more than 1.5 MW (nameplate rating); or

(ii) The modification will result in a change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment.

All new associated facilities and electric power lines related to the generating proposal shall be covered in the EA.

(4) The expansion of a mining or drilling operation or a new drilling operation.

(5) Purchase of existing facilities or a portion thereof which are presently in violation of Federal, state or local environmental laws or regulations.

(6) The construction of electric power lines and related facilities designed for or capable of operation at a nominal voltage of 230 kV or more (low side) not covered by § 1794.31 (categorical exclusions) or § 1794.34 (normally requiring an EA with scoping).

(7) The construction of electric power lines and related facilities designed for or capable of operation at a nominal voltage of 69 kV or more (low side) but less than 230 kV (low side) where:

(i) More than 40 kilometers (24.85 miles) of power line are involved or

(ii) Substations and switching stations require new physical disturbance of fencing of more than 2 hectares (4.94 acres) at any single site or more than 4 hectares (9.88 acres) for all sites.

(8) Proposals designed to reduce the amount of pollutants released into the environment which may have other environmental impacts outside of the existing facility site.

(9) Issuance of REA regulations concerning environmental matters or substantial facility design, construction or maintenance practices.

(b) Proposals of this type are subject to the requirements of §§ 1794.60–1794.64.

§1794.34 Proposals normally requiring an Environmental Assessment with scoping.

(a) There are certain actions which require the use of a scoping procedure in the development of an EA. After the scoping process is completed and an acceptable Environmental Analysis has been submitted by the Borrower, REA will determine whether to prepare an EIS or finding of no significant impact (FONSI). The types of proposals falling within this category are:

(1) The construction of electric power lines and related facilities designed for or capable of operation at a nominal voltage of 230 kV or more (low side) where:

(i) More than 40 kilometers (24.85 miles) of power line are involved; or

(ii) Substations and switching stations require new physical disturbance or fencing involving a total of more than 2 hectares (4.94 acres) at any single site or more than 8 hectares (19.77 acres) for all sites.

(2) Construction of combustion turbines and diesel generators of 40 MW (nameplate rating) or more; and the construction of any other type of electric generating facilities of 5 or more MW but less than 40 MW (nameplate rating). All new associated facilities and electric power lines related to the subject generating project shall be covered in any EA or EIS prepared.

(b) Proposals of this type are subject to the requirements of §§ 1794.70–1794.73.

§ 1794.35 Work plan proposals.

Borrowers frequently request financing assistance for a number of relatively minor unrelated projects all of which are described in a single "work plan." In determining the proper environmental classification of construction projects contained in a work plan, REA will consider as a single proposal all related construction included in the work plan and any additional construction related thereto which, although not included in the work plan, is reasonably foreseeable.

Subpart E—Procedure for Categorical Exclusions

§ 1794.40 General.

The following procedure, which applies to action classified as categorical exclusions in § 1794.31 hereof, provides REA with information necessary to determine if the proposed action meets the criteria for a categorical exclusion. Where, because of extraordinary circumstances, an action may have a significant effect on the quality of the human environment, REA may require additional environmental documentation.

§ 1794.41 Proposals with no BER.

Normally the Borrower shall not submit a BER for proposals included in § 1794.31(b). However, if so noted in § 1794.31(b) the Borrower shall submit a description of the proposal. Such description shall include, where applicable, a plan for erosion and sedimentation control. No public notice is required unless the proposal is located in and may affect wetlands or floodplains.

§ 1794.42 BER proposals.

For proposals included in § 1794.31(c) the Borrower normally shall submit a BER or its equivalent which will assist REA in identifying extraordinary circumstances in which a normally excluded action may have a significant environmental effect. No public notice is required unless the proposal is located in and may affect wetlands or floodplains. REA shall not permit construction or other activities which would have an environmental effect until it has received, reviewed and accepted an adequate BER.

Subpart F—Procedure for Proposals Normally Requiring an EIS

§ 1794.50 Normal sequence.

Appendix A to Part 1794 (Procedure for Proposals which Normally Require an EIS) describes the normal sequence of EIS preparation to be employed by REA. For proposals normally requiring an EA with scoping (see § 1794.34), the NEPA process shall proceed in the same manner as for proposals normally requiring an EIS through the point at which the Environmental Analysis is submitted (see § 1794.53). After the Environmental Analysis has been submitted, REA shall make a judgment to prepare either an EIS or a finding of no significant impact (FONSI).

§ 1794.51 Preparation for scoping.

(a) REA has developed a general approach to the NEPA process, including scoping, for proposals normally requiring an EIS (§ 1794.32) and for proposals normally requiring an EA with scoping (§ 1794.34). Scoping procedures are designed to determine the scope of issues to be addressed and to identify significant issues related to a proposed action. REA may require scoping procedures to be followed for other proposals where appropriate to achieve the purposes of NEPA.

(b) As soon as practicable, REA will publish its notice of intent to prepare an EIS (see 40 CFR 1508.22). The Borrower shall publish, in a timely manner, a notice similar to REA's notice. If the proposal is one which normally requires an EA with scoping (§ 1794.34), the notice shall indicate that: (1) REA may prepare an EA before or without necessarily preparing an EIS, and (2) the decision whether or not to prepare an EIS will be based on information received from the Borrower, Federal, state and local agencies, organizations and the general public during the scoping process, preparation of the Environmental Analysis, and the review period for a finding of no significant impact (if originally issued).

(c) As part of the early project planning the Borrower should consult with expert and interested Federal, state and local agencies to inform them of the proposed project, and to identify permits and approvals which must be obtained and administrative procedures which must be followed.

(d) Before any scoping meetings are held REA shall require the Borrower to submit two environmental documents:

(1) Alternative Evaluation;

(2) Siting Study (for electric generation or new mines) or Macro-Corridor study (for electric transmission).

(e) The Borrower is encouraged to hold additional public information meetings in the general location of the proposed project and any reasonable alternatives when such borrower meetings will make the scoping process more meaningful. A written summary of the comments made at such meetings should be submitted to REA as soon as practicable after the meetings.

§ 1794.52 Scoping meeting.

(a) Both REA and the borrower shall publish a notice of the public scoping meeting which shall:

(1) Provide a brief description of the nature and location of the Borrower's recommended alternative (if any) and reasonable alternatives;

(2) State the intent to hold public scoping meetings, giving the date, time, location and purpose of these meetings;

(3) State where copies of the scoping documents are available for public review, which shall include the Borrower's headquarters, REA offices in Washington, and other locations as determined by REA;

(4) Provide the name and address of the person to whom questions and comments should be sent;

(5) Set forth a thirty (30) day period after the scoping meeting(s) to enter comments into the meeting record.

(b) The REA notice will be published at least thirty (30) days prior to the meeting(s). The Borrower's notice shall be published at least ten (10) days, but not more than thirty (30) days prior to the meeting(s).

(c) The scoping meeting(s) will normally be held in the vicinity of the Borrower's recommended alternative and, where appropriate, the reasonable alternatives or such other places as REA determines will best afford an opportunity for public involvement. Any person, organization or government body desiring to make a statement at the meeting may make such statement in writing or orally. A record will be made of the scoping meeting.

(d) As soon as practicable after the scoping meetings(s), REA, as lead agency, shall determine the significant issues to be analyzed in depth and identify and eliminate from detailed study the issues which are not

significant or which have been covered by prior environmental review. REA will develop a proposed scope for further environmental study and review. A copy of this proposed scope will be sent to cooperating agencies and the Borrower, which shall be given thirty (30) days to comment on its adequacy and emphasis. After expiration of the thirty (30) day period REA will provide formal guidance to the Borrower concerning the scope of environmental study to be performed and information to be gathered.

§ 1794.53 Borrower's environmental analysis.

(a) After scoping procedures have been completed, REA shall require the Borrower to develop and submit an Environmental analysis satisfactory in form and substance to REA. The Environmental Analysis will be prepared under the guidance of the REA staff and all information set forth therein shall be subject to independent verification by REA.

(b) The Environmental Analysis will normally provide a basis for preparation of REA's EA or EIS and may be made an appendix to the REA document. After REA has reviewed and found an Environmental Analysis to be satisfactory, the Borrower will be required to provide REA with a sufficient number of copies of the Environmental Analysis to satisfy REA's distribution plan.

(c) The Environmental Analysis shall include a summary of the construction and operation monitoring and mitigation measures for the proposed project. This summary shall appear in the draft and final EIS. These measures may be revised as appropriate in response to comments on the draft and final EIS and other information. These measures also shall be incorporated by summary or reference into REA's Record of Decision.

§ 1794.54 EIS.

(a) After a draft or final EIS has been prepared, REA and the Borrower shall issue a notice of availability for the document. The notice shall:

(1) Provide a brief description of the nature and location of the preferred and reasonable alternatives;

(2) State the availability of a draft or final EIS for public review;

(3) State how copies of the EIS can be obtained and where copies are available for public review which shall include the Borrower's headquarters, REA offices in Washington, D.C., selected libraries in the area of the preferred and reasonable alternatives and such other reasonable places as REA shall select;

(4) Provide the name and address of the person to whom questions and comments should be sent;

(5) Set forth the time period for review and comment. This time period normally shall be forty-five (45) days for a draft EIS and thirty (30) days for a final EIS, measured from the date that the U.S. Environmental Protection Agency's notice or the Borrower's notices are first published, whichever is later.

REA and the Borrower notices for the final EIS shall aslo request persons, organizations or governmental bodies which wish to be notified when the Record of Decision is available to inform REA of such interest.

(b) In addition to circulation required by 40 CFR 1502.19, draft and final EIS's (or summaries thereof, at REA's discretion) shall be circulated to the appropriate state, regional, and metropolitan clearinghouses.

(c) Where a final EIS does not require that substantial changes be made in the draft EIS, REA may document required changes through errata sheets, insertion pages and revised sections to be incorporated into the draft EIS. In such cases, REA will circulate such changes together with comments on the draft EIS, responses to comments, and other appropriate information, as its final EIS. REA will not circulate the draft EIS again, although the draft EIS will be provided if requested within thirty (30) days of publication of notice of availability of the final EIS.

(d) In individual situations, upon mutual agreement between REA and the Borrower, the EIS may be prepared by an independent contractor. If REA acts as lead agency, the contractor will be chosen by REA. Under this procedure, the Borrower normally will not be required to submit an Environmental Analysis.

§ 1794.55 Timing of agency action.

(a) Where an REA action requires an EIS, REA shall prepare a Record of Decision. The Record of Decision will not be prepared, and REA will not take any action or execute commitments before expiration of the thirty (30) day period starting with either EPA's notice in the **Federal Register** that the final EIS is available or the Borrower's notices of availability, whichever is later.

(b) For budgetary purposes some financing assistance may be approved conditionally with a stipulation that no funds will be advanced until a Record of Decision has been prepared.

Subpart G—Procedure for Environmental Assessment Proposals Without Scoping

§ 1794.60 General.

The following procedure applies to all actions classified as Environmental Assessment projects in § 1794.33 hereof. Where appropriate to carry out the purposes of NEPA, REA may require, on a case by case basis, that additional action be taken in connection with preparation of an EA. If at any point in the preparation of an EA, REA determines that the action will have a significant impact on the environment, the preparation of an EIS will be required and the procedures applicable thereto will be followed.

§ 1794.61 Document requirements.

For those proposals covered by § 1794.33, the Borrower shall submit a BER or its equivalent. The BER may serve as REA's EA if REA makes an independent evaluation of the environmental issues and concurs in the BER's scope and content. The BER also may be made an Appendix to REA's EA to provide information on the proposal and reduce unnecessary paperwork.

§ 1794.62 Notice of availability.

The Borrower shall publish a public notice of availability of the BER.

(a) The Borrower's notice shall:

(1) Provide a brief description of the nature and location of its recommended and reasonable alternatives;

(2) State the availability of the BER for public review;

(3) State how copies of the BER can be obtained and where copies are available for public review, which shall include the Borrower's headquarters, REA offices in Washington, D.C., and other locations as determined by REA;

(4) Provide the name and address of the person to whom questions and comments should be sent:

(5) The Borrower's notice shall be published after REA has determined that the BER provides a satisfactory basis for public comment.

§ 1794.61 FONSI and notice requirements.

(a) If REA, after reviewing the EA, finds that the proposal will not have a significant effect on the human environment, REA shall prepare a FONSI. After the FONSI has been made, REA shall publish a notice of availability of the EA and FONSI. The Borrower shall have published, in a timely manner, a similar notice.

(b) Both the REA and Borrower's notice shall:

(1) Provide a brief description of the nature and location of the preferred and reasonable alternatives:

(2) State that an EA and FONSI have been prepared;

(3) State how copies of the EA and FONSI can be obtained, and where copies are available for public review which shall include the Borrower's headquarters, REA ofices in Washington, and other locations as determined by REA;

(4) Provide the name and address of the person to whom questions and comments should be sent.

(c) REA shall not permit construction or other activities which would have an environmental effect until it has received, reviewed and accepted an adequate BER and the public notice requirements in paragraphs (a) and (b) of this section have been met.

§ 1794.64 Timing of agency action.

REA may take its final action on proposals requiring an EA without scoping (§ 1794.33) at any time after publication of the REA and Borrower notices that a FONSI has been made.

Subpart H—Procedure for Environemntal Assessment Proposals With Scoping

§ 1794.70 General.

For those proposals covered by § 1794.34, REA and the Borrower shall follow the procedures for scoping and the requirements for notices and documents set forth in §§ 1794.50 through 1794.53 of Subpart F, "Procedure for Proposals Normally Requiring an EIS."

§ 1794.61 RA determination

After the scoping process and receipt of an acceptable Environmental Analysis, REA shall make a judgment as to whether or not REA's action will be a major Federal action significantly affecting the quality of the human environment. If a significant effect is evident, REA shall continue with the procedures in §§ 1794.54 through 1794.55 of Subpart F, "Procedure for Proposals Normally Requiring an EIS." If a significant effect is not evident, REA shall develop and prepare an EA and FONSI.

§ 1794.72 Notice requirements for a FONSI determination.

If REA prepares a FONSI for a proposal covered by § 1794.34, REA and, in a timely manner, the Borrower shall publish notices of availability of the EA and FONSI. The EA and FONSI shall be made available for public review and comment for at least thirty (30) days, and the REA and Borrower notices shall solicit public comments. Additional REA and Borrower notice requirements are included in § 1794.63.

§ 1794.73 Timing of agency action for FONSI determination.

REA may take its final action at any time after expiration of the thirty (30) day period measured from the date of publication of the REA notice in the **Federal Register**. Normally REA shall wait thirty (30) days after publication of the Borrower's notice before taking a final action.

Subpart I—Adoption of Environmental Documents

§ 1794.80 General.

Where Borrowers participate in projects for which other agencies have already prepared an EIS or EA, REA will adopt the existing EIS or EA consistant with the provisions of 40 CFR 1506.3.

§ 1794.81 Adoption as a final EIS.

(a) If REA acted as a cooperating agency, the lead agency's EIS may be adopted as a final EIS without recirculation if REA has reviewed the comments received on the final EIS and concluded that comments and suggestions have been adequately considered.

(b) If REA was not a cooperating agency but determines that another Federal agency's EIS is adequate it will adopt the EIS as its final EIS.

(1) REA and the Borrower shall publish a notice stating REA's adoption of the EIS and independent determination of its adequacy. The notices are governed by §§1794.12 (general) and 1794.54(a) (EIS).

(2) If the adopted EIS is generally available, REA will circulate its written finding that the adopted EIS meets the standards for an adequate EIS. The adopted EIS shall be made available to interested parties upon request.

(3) If the adopted EIS is not generally available, REA will circulated its written finding that the adopted statement is an adequate EIS, along with either the adopted EIS or a summary thereof in accordance with 40 CFR 1502.19. The adopted EIS shall be circulate in the same manner as a final EIS (see § 1794.54(b)).

§ 1794.82 Adoption as a draft EIS.

Where REA determines that an existing Federal EIS requires additional information to meet the standards for an adequate statement for a proposed REA action, REA may adopt all or a portion of the EIS as a part of its draft EIS. The circulation provisions of § 1794.54(b) for draft and final EIS's apply. The general notice provisions (§ 1794.12) and notice provisions for EIS's (§ 1794.54(a)) apply.

§ 1794.83 Adoption of an EA.

REA may adopt a Federal EIS or EA or a portion thereof as its EA. REA shall make the EA available and assure that notice is provided in the same manner as if REA had prepared the EA.

§ 1794.84 Adoption of environmental materials.

REA may adopt environmental documents or portions thereof prepared by Federal, state or local agencies or other parties independently of the requirements of NEPA. REA may adopt such materials into its environmental documents. REA will circulate the adopted document as a part of its environmental assessment or draft and final EIS in the same manner as if prepared by REA.

§ 1794.85 Timing of agency action.

Where REA has adopted another agency's environmental documents, the timing of the REA action shall be subject to the same requirements as if REA had prepared the required EA or EIS.

Subpart J—Supplemental EIS

§ 1794.90 Circulation and notices.

(a) A supplement to a draft or final EIS shall be prepared, circulated and given notice by REA and the Borrower in the same manner (exclusive of scoping) as a draft and then final EIS (see § 1794.54).

(b) Normally REA and the Borrower shall have published notices of intent to prepare a supplement to a final EIS in those cases where a Record of Decision has already been issued.

(c) REA, at its discretion, may issue an information supplement to a final EIS where REA determines that the purposes of NEPA are furthered by doing so even though such supplement is not required by 40 CFR 1502.9(c)(1). REA and the Borrower shall publish a notice of availability. The notice requirements shall be the same as for a final EIS indicated in § 1794.54(a). The information supplement shall be circulated in the same manner as a final EIS (see § 1794.54(b)). REA shall take no final action on any proposed modification discussed in the

information supplement until thirty (30) days after the REA notice of availability is published or thirty (30) days after the Borrower's notice is published, whichever occurs later.

§ 1794.91 Timing of agency action.

Timing of REA's action shall be subject to the same requirements as apply to a typical EIS.

Appendix A—Procedure for Proposals Which Normally Require an EIS

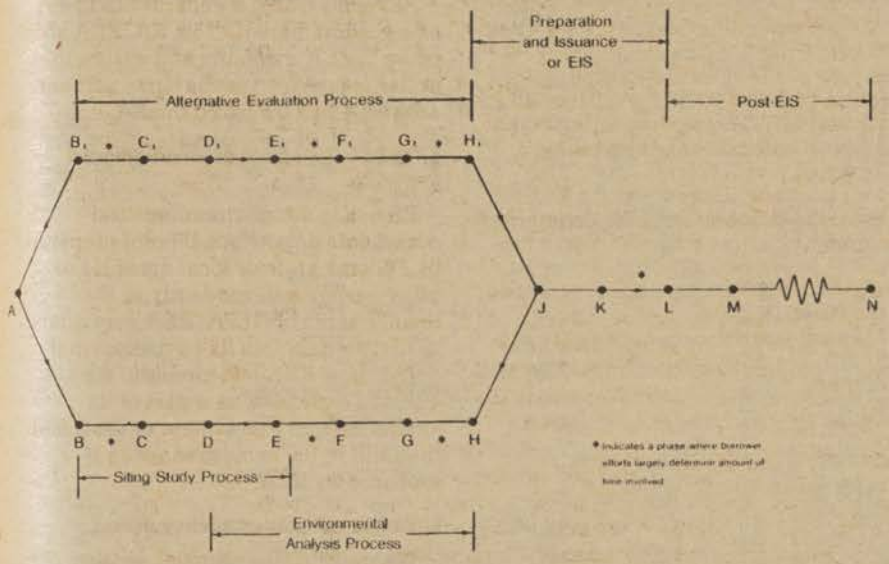


Diagram Legend

► On-going activity in the EIS process
B, C, D, Discrete events in the Siting Study and Environmental Analysis path
B_1, C_1, Discrete events in the Alternative Evaluation path

As the diagram illustrates, there will be two separate but interrelated study processes leading to the preparation of the EIS. One process B_1 through H, will examine alternatives to building a generating (or transmission or new mining) facility. The other process, B through H will examine a range of potentially acceptable sites for a generating (or transmission or new mining) facility.

In order to facilitate long-range planning and reduce delays, a Borrower may undertake preliminary evaluations of alternative means of providing power and begin the study of a range of potentially acceptable sites for a generation (or transmission or new mining) facility before demonstrating a need for the proposal. However, the obligation to show a need for the proposal will still remain before REA financing assistance can be obtained.

Equal spacing between points on the diagram is not meant to suggest equal time intervals. Where two letters are the same (except for subscripts), generally the two indicated events should occur within the same time frame. For $\overline{BD}$ and $\overline{B_1D_1}$, this is only true where the Borrower initiates site selection at a time when there is a specific need to be filled. For major transmission projects, events occurring with reference to the Macro-Corridor Study are analogous to the generation and mining Siting Study procedures.

The flow diagram is intended to indicate the normal sequence of events although some variance may be acceptable in individual cases if good cause is demonstrated. However, in all instances REA shall assure that the requirements of the NEPA and CEQ regulations are fulfilled.

Discrete Events

A: The Borrower presents to REA the underlying needs which form the basis of its proposal. REA undertakes for electric generation proposals, when necessary, the preparation or update of the power requirements study (PRS) utilizing REA procedures. For electric generation and transmission and mining proposals, the need for the proposal shall be presented in the draft and final EIS's (or EA, as applicable).

B and B_1: The Borrower consults with REA on the procedures and general parameters for the Siting Study and on potential alternative ways to meet the need, including guidance on preparing the Alternative Evaluation. Consultation may be initiated even if a specific need has not been identified.

$\overline{BC}$: Work is performed on the Siting Study by the Borrower and/or consultant. This includes "macroanalysis" in which general criteria, literature search and consultation are used to identify a reasonable range of potentially acceptable sites.

Borrower/consultant contact Soil Conservation Service (SCS), U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), U.S. Army Corps of Engineers (COE), Federal land use agencies and state agencies for early guidance and input.

As soon as practicable during this period, REA publishes its "Notice of Intent" in the **Federal Register** and the Borrower publishes similar information in local newspapers of general circulation. (See § 1794.51(b)).

$\overline{B_1C_1}$: Borrower does research and consultation, contacts other utilities, etc., to determine whether there are reasonable alternatives to a new generating (or transmission or mining facility). The Alternative Evaluation should include discussion, as appropriate, of joint projects, alternate fuels, alternate energy sources, conservation, etc. Alternatives eliminated from detailed study should be identified and reasons given for the elimination. The Borrower should also indicate which alternatives are reasonably available to it if its recommended alternative is not approved.

C and C_1: Borrower submits draft of Siting Study and Alternative Evaluation to REA for review. REA reviews each draft for major flaws. If such flaws are not present, REA submits both the draft Siting Study and Alternative Evaluation to potentially involved Federal and state agencies (including, but not limited to, all agencies invited to the field investigation) for review and comment.

D and D_1: REA invites other Federal and state agencies to make a field investigation of potentially acceptable siting areas discussed in the draft Siting Study and critique the study methodology, and point out potential problems with these alternative siting areas. The Borrower at this time presents site and nonsite specific alternatives included in the Siting Study and Alternative Evaluation to these agencies for their comments. Participating agencies may critique alternative means of meeting the need and point out potential problems with alternative siting areas. The agencies set up a strategy for conducting the scoping process and tentatively identify the lead and cooperating agencies for the EIS.

$\overline{DE}$: Federal agencies are given the opportunity to comment on the potentially acceptable alternatives to point out fatal flaws. During this stage the Borrower may secure land, water or other critical factors for potentially acceptable sites by option or other means (subject to the limitations in § 1794.21). If REA's notice of intent and the Borrower's notice did not give the date and time of the scoping meeting, scoping meeting notices are published now.

E and E_1: Scoping meeting(s) is held to receive input from the public, interested parties, and Federal, state and local officials and agencies. Among the topics open to discussion are reasonable alternatives to meet the need, potentially acceptable sites, participation projects or conservation, significant issues to be addressed in the EIS, and the need for the project.

$\overline{EF}$: Borrower submits revised Siting Study (or addenda if appropriate) to REA for review after revising it to reflect input from scoping meeting(s). REA consults with cooperating agencies on the scope of the EIS and gives the Borrower guidance on scope of the Environmental Analysis. Borrower prepares the draft Environmental Analysis which includes a fatal flaw study of potentially

acceptable sites and a "microanalysis" in which detailed field work is conducted on the Borrower's recommended site(s). The Borrower continues consultation with REA and other interested Federal, state, and local agencies, and the public, and reflects their comments in the Environmental Analysis.

$\overline{D_1F_1}$: Borrower updates and expands, as necessary, the Alternative Evaluation on the basis of comments received from Federal, State and local officials and agencies, input from participants at the scoping meeting(s), the general public and new developments (*e.g.*, negotiations with other electric power utilities). REA provides guidance to the Borrower during this period based on cooperating agency and public input.

F and F_1: The Borrower submits draft Environmental Anaylysis to REA for review and comment. If the draft Environmental Analysis has no readily apparent critical flaws, REA distributes copies of the Environmental Analysis to cooperating agencies for review. Borrower submits Alternative Evaluation, which has been updated after the scoping meeting, and also includes new alternatives, if any, which have developed. REA submits updated Alternative Evaluation to requesting cooperating agencies. The Environmental Analysis may incorporate the Alternative Evaluation leading to a single review document.

$\overline{FG}$ and $\overline{F_1G_1}$: REA and cooperating agencies independently evaluate, for accuracy, scope and content, the information submitted to them. REA collates reponses and reconciles them with the Borrower. REA may begin writing the draft EIS at this point.

H and H_1: REA Borrower submits, as appropriate, a final revised Environmental Analysis and Alternative Evaluation to REA.

$\overline{HJ}$ and $\overline{H_1J}$: REA independently evaluates the revised documents and verifies the information therein before use in the EIS. During this time, REA prepares the draft EIS, utilizing the borrower—supplied data, intergency expertise, and other information.

J: REA issues draft EIS for public review and comment publishing notice of availability in the **Federal Register**.

K: Public comment period ends on draft EIS. This date may be extended in certain instances.

$\overline{KL}$: REA (and cooperating agencies, as approporiate) review comments received on draft EIS and responds, by modifying alternatives, developing alternatives not previously given sufficient consideration, supplementing, improving or modifying the analyses, etc. A final EIS or supplemental draft EIS is prepared, as appropriate, with cooperating agencies' assistance.

M: Record of decision is issued. REA will take no final action on any loan guarantee, etc., sooner than 30 days after issuance of the final Federal EIS.

$\overline{MN}$: Implementation of mitigation measures is checked, as necessary, by REA and other Federal, state, and local agencies during construction and operation of the project.

Dated: February 3, 1984.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 84–6670 Filed 3–12–84: 8:45 am]

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